



## AN APPROACH TO MEDICO-LEGAL CASES IN INDIAN GOVERNMENT HOSPITAL "DO'S AND DON'TS".

### Orthopaedics

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### ABSTRACT

Medicolegal cases (MLC) are an integral part of medical practice that is frequently encountered by Medical Officers working in any government or private hospitals across the country. The occurrence of MLCs is on the increase, both in the Civil as well as in the Indian Armed Forces because of fast growing economy, increasing expectation from doctors, life style, crime and road traffic accidents. Proper handling and details and accurate documentation of these cases is of prime importance to avoid legal complications and to ensure that the Next of Kin (NOK) receive the entitled benefits per as exiting rules and provisions. All medical officers working in government or in private hospitals, encounter medicolegal issues which should be handled in accordance with the law of the land existing SOPs (standing order procedure) and directives issued by higher formation or service headquarters. The rule of thumb is to register the case as MLC when you are in doubt about the nature of injury or death of the person, never ever come under pressure not to initiate/register MLC.

### KEYWORDS

Medicolegal cases (MLC), medical officer, hospital emergency

#### Introduction:

Medical officer or medical practitioner working either in government or in private hospital across the country at any time during the practice of his profession will encounter/ would have encountered certain cases, which at that given time or subsequently, would be labeled as "medico-legal". Many of us as medical officer are usually apprehensive in dealing with these type of cases, because according to them, a MLC (Medico-legal Case) implies-'rough speaking' police officials, trapped in the case, 'inordinate hours' in the court, 'unrelenting' defense counsels, etc. Because of this "fear-factor", medical officer either try to avoid the cases or try to 'get away with' them as soon as possible. In both ways, because they do not properly understand the implications of the case, they may make mistakes, which may land them in trouble.

The best way to deal all medico legal cases is to understand them properly, analyze them thoroughly, and then act accordingly. Since law and order is a state subject, there are differences in the legal procedures being followed by different states. Medical Officers should acquaint themselves with medicolegal procedures that are in vogue in that state in which they are serving or practicing. RMO / Casualty medical officer /medical officer in charge of emergency room / Duty Medical Officer (DMO) / MO In charge ward who is attending to the case, may label a case as MLC.

#### What is a medico-legal case or whom should a doctor register as MLC?

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 land [1]. 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 ailment [2]. In a simple way, it is a medical case with legal implications or a legal case requiring medical expertise. Accordingly, a medico-legal report is one, which is prepared for the purpose of litigation - imminent or prospective. The responsibility to label any case as an MLC rests solely with the attending medical officer.

#### Receiving a MLC

A doctor can receive a medico-legal case in any of the three ways -

1. A case is brought by the police for examination and reporting,
2. The person in question was already attended to by a doctor and a medico-legal case was registered in the previous hospital, and the person is now referred for expert management/ advice.
3. If any patients transferred in from previous station and MCL has been raised at previous station, being admitted at new station for further management, the DMO/MO should not initiate MLC again at new station rather he should enter preamble of patient ( patient details) in his MLC register and in the injury column he should write previous MLC number only (stating as per MCL no: dated & place). The written information has to be given to local police

station as well.(As per AIIMS New Delhi hospital management board) [13].

4. In the other situation, after history taking and thorough examination, if the doctor feels that the circumstances/ findings of the case are such that registration of the case as an MLC is warranted, he should immediately inform the patient of the same and take his consent for converting the case into MLC. At that given time, the patient may refuse consent, withdraw the consent already given or may even leave the hospital. The doctor has no right to force anything on the patient. The best way is to carefully document all the findings, note the exact moment at which the consent was withdrawn and inform the nearest police station regarding the same, giving reasons for his actions. At times, the decision may be made easier by the patient himself expressing his intention to register a case against the alleged accused.

The medical officer has to use his judgment when the person comes on his own and the history is not corroborative to clinical finding or injury sustained and not completely revealed, either by the patient or his relatives/ friends, due to some motive. When a person has been referred from another hospital, which has already registered as a medico-legal case, the same may be informed to the nearest police station, however, a fresh medico-legal case need not be registered. However only preamble portion has to be mentioned in medicolegal register and present condition of injury, wound has to be entered. When a patient is to be referred to another hospital for further management, he should be issued a referral letter detailing the treatment given and whether the case was registered as an MLC or not.

Request made by the patient or the persons accompanying, not to register a medico-legal case, should not be acceded to, by the medical practitioner and the medical officer should not come under any pressure whatsoever. He should use his judgment and experience. If doctor thinks that the case needs to be reported to the police, he should do so without fail and without any delay. When medical officer is in doubt whether to register as MLC or non MLC it is better to register as MLC. Remember not informing the police of such cases may invite trouble to the doctor u/s 39 CrPC [Criminal Procedure Code (cases wherein public is duty-bound to inform the police)] and S.177 & 201, IPC [Indian Penal Code (giving false information & causing disappearance of evidence)]. In no condition/ circumstances MLC to be register in back date.

#### Procedure of registering a medico-legal case

In the casualty, while attending to an emergency, the doctor should understand that his first priority is to save the life of the patient. He should do everything possible to resuscitate the patient and ensure that he is out of danger. **All legal formalities stand suspended till this is achieved.** This has been clearly exemplified by the Hon'ble Supreme Court of India in *Parmananda Katara Vs Union of India* [3]. "Every doctor is bound to provide medical aid to the victims irrespective of the cause of injury; he cannot take any excuse of allowing law to take its course". In the same case, the MCI (Medical Council of India)

filed an affidavit stating that "the MCI expects that all registered medical practitioners must attend to the sick and the injured immediately and it is the duty of the medical practitioner to make immediate and timely medical care available to every injured person, whether he is injured in an accident or otherwise...Life of a person is far more important than the legal formalities" Again, in *Pattipati Venkaiah Vs State of AP*[4], the Hon'ble High Court of Andhra Pradesh decreed that "doctor's duty is to attend to the injuries of the person produced before him. His primary effort should be to save the life of the patient and then inform the police/ document clearly all the injuries observed by him in medicolegal cases". This means that the duty of the doctor to provide medical aid, even in MLCs, has been extended to the private doctors also.

The next important duty is to identify, after carefully analyzing the injuries on the person of the patient, the history given, and the other circumstances of the case; whether the said case falls under the category of an MLC or not. If it does fall in this category, then he must register the case as an MLC and/ or intimate the same to the nearest police station, either by telephone or in writing and also to his superior through official channel if he is in government service. An acknowledgement of receipt of such a message should be taken for future reference and filed. If the intimation is given orally or on phone, the diary number (DD or the Daily Docket number) should be taken down as proof of intimation and should be properly documented in the patient's records. According to the Hon'ble Supreme Court, "whenever any medico-legal case comes to the hospital, the medical officer on duty should inform the Duty Constable at nearest police station, giving the name, age, sex of the patient and the place of occurrence of the incident and should start the treatment of the patient immediately without any delay. It is the duty of the said Constable to inform the higher police functionaries for further action [3]. Every service hospital falls under jurisdiction of police station and the contact number should be available to DMO and in MI Room. Local Police should also be informed regarding the discharge/ death of the said patient in the Casualty/ any other department of the hospital if the patient admitted.

A medico-legal register should be maintained in the casualty ( MI Room) of every hospital and details of all medico-legal cases should be entered in this register, ( in Duplicate) including the time and date of examination and the name of the doctor who is dealing with the case. This would be of immense help for future reference, when the patient through the court/ the police, requests for a copy of the medicolegal report.

#### Cases that are to be treated as medico-legal [5]

The following cases should be considered as medico-legal and as such the medical officer is "duty-bound" to intimate to the police regarding such cases:

1. All motor vehicle accident, accident while working in factory/ ship, aircraft (under maintenance) or any other unnatural accident cases specially when there is a likelihood of patient's death or grievous hurt.
2. All cases of grievous injuries and burns ( more than 25 %) -the circumstances of which suggest commission of an offence by somebody.
3. Cases of unconsciousness/ comatose condition where its cause is not natural or not clear
4. Suspected or evident criminal abortion.
5. Suspected or evident sexual assault.
6. Suspected or evident poisoning or intoxication.
7. Cases referred from court or otherwise for age estimation.
8. Cases brought dead with improper history creating suspicion of an offence.
9. Suspected self-infliction of injuries or attempted suicide.
10. Any other case not mentioned but has legal implications.

#### Some more common situation should be consider as MLC cases.

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. Death on Operation table or Unexplained ICU death
13. Patient sustained injury while in the Hospital,
14. Sudden death of patients after parenteral administration of a drug or medication.
15. Unexplained death after surgery or during any Interventional procedure.
16. **Admitted Patients is not found in hospital premises, and when discharged in absentia)- local police should be informed**

17. 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.
18. Relatives of the patient assault the treating doctor or other staff of the hospital.
19. Relatives of the patient create a law and order problem in the hospital.

#### Time limit for registering a medico-legal case

As per rule there is no time limit to register as MLC but it is prudent to register medico-legal case as soon as a doctor suspects foul play or feels it necessary to inform the police, at any time after admission. There should not be any unnecessary delay in doing so. A case may be registered as an MLC even if it is brought several days after the incident.

#### Precautions to be taken

##### (A) Consent

A valid consent to every medical procedures or intervention is fundamental to the interaction between all doctors and patients. Accordingly, consent of the patient or the legal guardian is mandatory for examination.

To be valid, the consent must be competent, freely given, informed, and specific to the procedure being performed. In medicolegal cases, an informed consent includes information that:

- (a) the examination to be conducted would be a medicolegal one and would culminate in the preparation of a medico-legal injury report,
- (b) all relevant investigations needed for the said purpose would be done, and
- (c) the most important, the findings of the report may go against the patient if they do not tally with the history given.
- (d) in all cases of sexual offenses a written consent of the **victim** before medical examination is mandatory even though bought by police/ investigating agency. The said examination must be done by lady MO/ preferably lady gynecologists.

Whenever examining a woman, it is preferable that a lady doctor should examine her, or, wherever this is not possible, a female attendant (nurse, etc) should be present during the examination [7]. The Hon'ble High Court of Punjab and Haryana has now ruled that only a lady doctor can examine a woman who is an alleged victim of sexual offence.

#### Consent is not required in following condition:

A person arrested as accused in a criminal offence may however, be medically examined without his consent on the request of a police officer or on the orders of the court, if there are sufficient grounds to believe that such examination will provide evidence of the commission of the offence.

Moreover, a reasonable amount of force may be used to medically examine the person in such cases (Sec 53 CrPC).

To invoke Sec 53 of CrPC,[6] certain criteria need to be fulfilled, namely:

- (a) the person should have been arrested on charge of committing an offence punishable under law,
- (b) there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of the offence, and
- (c) the requisition for medicolegal examination is from an officer of the rank of a sub-inspector of police or above.
- (d) In the following situations it may not be necessary to take the consent:
  - (i) if doctor is managing a patient in an Emergency situation;
  - (ii) While working in situations of public interest like during floods, cyclones, earthquakes, etc;
  - (iii) Treating patients in places like mental asylums, orphanages, and
  - (iv) Working under Court order, e.g. in case of smuggling, operations are done for detecting narcotics or gold kept in intestine or other parts of body.

##### (B). Collection and preservation of samples

All relevant specimens should be collected and after proper labeling, are to be sealed under the medical officer 's supervision. These should

be handed over to the police official concerned, along with the medico-legal report and a proper requisition letter detailing the tests to be conducted on such samples. If the samples have been collected on the request of the police, the fact is to be mentioned in the report and no requisition is necessary. A proper receipt from Police officer should be obtained saying sample is duly sealed.

### (C) Confidentiality

According to Hippocratic Oath and as per MCI guidelines all medical doctors are required to keep secret all information regarding the patient that he comes across during the course of his treatment. Medico-legal reports are no exception and are to be treated as strictly confidential. They should not be issued directly to the patient. They have to be handed over to the police official, after getting them duly received on the carbon copy of the same. Copies of the MLR can be handed over to the patient/ his relatives, as per the prevailing rules of the hospital, and after the requisite fee has been paid by the patient.

### (D) Precautions to be taken in MLCs

(a) 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.**[12]

In case of RTA and critically injured patients if brought to the nearest MH/BH/GH by any civilian as Good Samaritan the details of latter is noted if they willing to give otherwise **if they are not agree to give their details should not be forced to furnished their details( as per latest Honble Supreme court order)**

- (e) 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 [12].
- (b) 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. As per Govt of India, Ministry of Home Affairs Letter No. 8/179/71-GP A, dated 25 Nov 72, there is no need for an inquest under Section 174 or 176 of Cr PC in deaths due to an accident, in which the aircraft belongs to the Navy, Army, Air Force or Para Military forces and the deceased person is an active member of any service at the time of accident. A certificate from the CO of the deceased person or a Senior Armed Forces Officer to this effect may be accepted for dispensing with the necessity of an inquest [12].
- (c) MLC should be reported by the first health care establishment in which the individual is received. In cases where a patient has been transferred before initiation of a report, the hospital to which he is transferred can initiate the report. It is important to ensure that the medical records are comprehensive before a patient is transferred. The fact as to whether or not medicolegal formalities have been initiated should invariably be mentioned in the transfer notes [12].

### Medico-legal Reports

Medico-legal reports (MLR) are to be prepared in duplicate immediately after the examination is done. They should be prepared in duplicate, preferably with a ball-point-pen, in a clear and legible hand writing. Cutting/ overwriting, etc should be avoided as much as possible and all corrections should be properly initialed. Abbreviations of any sort should be avoided.

### An MLR comprises of three parts, namely:

- a) Pre-amble-includes the date, time and place of examination, name of the patient, his residential address, occupation; name of the person(s)/police official accompanying, DDR/FIR No., informed consent of the person being examined, two marks of identification, etc, wherever applicable.
- b) Body (Findings/Observations)-includes a complete description of the injuries/any other findings present; any investigations /referrals, etc, asked for.
- c) Post-amble (Opinion)-includes the
- Nature of the injury-whether simple or grievous.
  - Weapon/Force used-whether blunt or sharp or fire-arms or burns, etc.
  - Duration of the injuries-based on the characteristics of the external injuries.

Here, it would be pertinent to note add that while assessing or giving the duration of the wound , the most common mistake that is to rely totally on the history given; while the doctor's own observations regarding the features of the injuries should be consider. This may prove disastrous, as far as the courts are concerned. As regards the

accuracy of estimating the duration of the injuries, the Hon'ble Supreme Court, in *Ramswaroop v State of UP* [8], said that "It is well known that a doctor can never be absolutely certain on the point of the time so far as duration of injuries is concerned".

- Any other information that may prove to be helpful to the police.
- If for any reason, the opinion is to be kept 'pending', the same is to be documented properly in the appropriate column.

The Officer/ DMO/RMO, issuing the MLR register to any doctor should ensure that it is properly numbered and a certificate regarding the same (giving the number of forms contained there-in) should be given by him on the first page of the said register.

All investigation forms, X-rays, Case file, etc should bear the label "MLC" on the top, so that necessary precautions can be taken by all concerned.

### Custody of the Records

The records should be kept under lock and key, in the custody of the doctor concerned or may be kept in a hospital Record Room or as per the institution's rules.

Most of the hospitals have a policy of maintaining all medico-legal records for variable periods. However, as per law, there is no specified time limit after which the MLRs can be destroyed. Hence, they have to be preserved. In view of the multitude of cases against the doctors under the Consumer Protection Act, it is advisable to preserve all the in-patient records for a period of at least 5 years and OPD records for 3 years [9].

### Admission and discharge

Whenever a medico-legal case is admitted or discharged, the same should be intimated to the nearest police station at the earliest. It is always better to inform the police through the casualty of the hospital where the medico-legal register is usually maintained and necessary entries can be made in it. While discharging or referring the patient, care should be taken to see that he receives the Discharge Card/Referral Letter, complete with the summary of admission, the treatment given in the hospital and the instructions to the patient to be followed after discharge.

Failure to do so renders the doctor liable for "negligence" and "deficiency of service". In *N. K. Kohli v Bajaj Nursing Home*, [10] the Madhya Pradesh State Consumer Disputes Redressal Commission said that "issuance of the discharge certificate is the mandatory duty of the treating doctor and the Nursing Home/ Hospital and the non-issuance of the same amounts to grave negligence and deficiency (in service) on the part of the doctor and the hospital".

If the patient is not serious and can take care of himself, he may be discharged on his own request, after taking in writing from him that he has been explained the possible outcome of such a discharge and that he is going on his own against medical advice. Police have to be informed before the said patient leaves the hospital. Sometimes the patient, registered as a medico-legal case, may abscond from the hospital or not found in hospital premises or the authority has decided to show him discharge in absentia. Police have to be immediately informed, the moment such an instance comes to the notice of the doctor/hospital staff.

### What to do when the person admitted as a medico-legal case dies in the hospital ?

The following are the do's and don'ts in case a person admitted as a medico-legal case expires.

- Inform the police immediately.
- Send the body to the hospital mortuary for preservation, till the legal formalities are completed and the police releases the body to the lawful heirs.
- Request a medico-legal postmortem examination.
- Do not issue a death certificate - even if the patient was admitted.

The dead body should never be released to the relatives; it should be kept in hospital mortuary and handed over to the police.

### Conclusion

Medico-legal cases have to be dealt with properly, following the institution's prevailing guidelines (DGAFMS Memorandum for medical officer in Armed forces). Usually, all the service and large hospitals and the teaching institutions should have an 'SOP for MLC

cases' which gives, in a step-wise detail, the correct procedure of dealing with the various kinds of MLCs. Even if such manuals are not available, these cases pose no problem if one uses proper caution and due care and attention, while dealing with them. Proper documentation, timely information, a methodical and thorough examination-including all relevant investigations and referrals, etc, are all that are need to be done.

**Conflicts of interest:** None

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