MEDICO-LEGAL SOCIETY OF INDIA

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Advisory of MLSI regarding MCCD in MLC

It has been brought to the notice of the association that Maharashtra State Government has issued a notification regarding conduct of post mortem (PM) examination only when it is not possible for a Registered Medical to determine Cause of Death and issue certificate (MCCD) in Form 4/4A.

Wardha police have earned a unique distinction by stopping unnecessary PMs. They now conduct PMs in only those cases that fit into the criteria in modified inquest form.

Superintendent of police Ankit Goyal has asked cops to prepare a report of the apparent cause of death and then decide whether to send the body to the PM or not. The amendments were made in section 174 of Criminal Procedure Code (CrPC) where cops were given liberty to decide on PM, but only after fulfilling all conditions. The changes were made after year long efforts by Dr Indrajit Khandekar. His report pointed out in most of the cases there was no need for a postmortem after knowing the cause of death. Unnecessary PMs are not only leading to wastage of valuable time of police and doctors, but also causing tremendous trauma to the relatives of the deceased without any added benefit.

However, during discussions held in the group of Medico Legal Society of India, and during online meetings conducted on 19th November and 24th December, doctors have expressed various concerns in issuing Medical Certificate of Cause of Death(MCCD) in Medico Legal Cases (MLC). According to them it is increasing medico-legal liability of doctors while trying to reduce the burden on departments of forensic medicine which are conducting PM studies.

These anxieties are not unfounded, because the medico-legal environment in the entire country is adversarial to the medical professionals. Support from legislators, government, police and judiciary to medical professionals is inadequate to say the least. Some examples highlighting these anxieties were discussed.

In Rajasthan, a patient named Asha Bariwa went into labor at village Dausa and travelled 150 Km up to Jaipur and returned back due to refusal of cesarean section in government hospital because the patient did not want to undergo tubectomy. Dr. Archana Sharma conducted a cesarean section on her. Patient was exhausted because of a prolonged second stage of labor. Though Dr. Archana Sharma arranged blood and tried to do the best of her abilities for the patient, the patient breathed her last. Police slapped section 302 (Murder) against Dr Archana Sharma and threatened to arrest her. Supreme Court Judgment in the Jacob Mathew case directs police to take expert opinion before arresting doctors. Dr. Archana Sharma could not withstand this pressure and committed suicide. In spite of the Supreme Court Judgment in Martin D'souza warning that action can be taken against erring police officers, no action has been taken. A writ petition filed by Association of Medical Consultants in Supreme Court of India was rejected for want of directly affected party. Writ petition filed by the husband of Dr. Archana Sharma has not been heard for the last two years.

Dr. Nibha Sinha from Patna showed courage by filing writ petition against police officers who arrested her for alleged medical negligence without expert committee opinion. Though the High Court came to the conclusion that the act of the police officer was illegal, the police officer is yet to be punished.

Violence against doctors is increasing day by day because of increasing intolerance in society and consumerism. Unfortunately the central government has refused to make any legislation stating that if doctors are given protection then lawyers, teachers and journalists will have to be given protection.

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Legislators did not appreciate that none of these professionals are working in emotionally charged life and death situations where relatives take law in their hands if their near and dear one succumbs to accident or serious illness. In its report, the National Task Force has stated that 23 states have Acts for protection of healthcare professionals and institutions, without realizing that these Acts are weak.

In Maharashtra out of 1318 accused, only 4 were convicted between 2015-2020. On 13/07/2021, Advocate General of Maharashtra informed the High Court that the Government will amend the 2010 Act and bring stronger Act as prescribed by a committee formed by the State Government as per directions of High Court of Judicature at Bombay. More than 3 years have passed but the Act has not been framed.

Home minister promised that the Central Government will bring an Act for protection of doctors and requested them to take back the strike. On withdrawal of strike, Epidemic Diseases Act 1897 was amended and provisions for protection were added. However these were seldom applied in FIRs.

In the Parmanand Katara Judgement, Supreme Court said that it is the duty of doctors to treat patients in emergency; and this duty is total, paramount and absolute. Unfortunately the Supreme Court did not guarantee corresponding rights to profession to doctors under Article 19(1)(g). Law commission report 201 has prescribed that the Government should make arrangements of reimbursement to hospitals for providing such emergency care, but the Government has failed to bring legislation.

In fact, the Home minister promised to remove doctors from criminal proceedings while speaking from the floor of house, but in reality brought in stronger legislation to punish doctors in cases of alleged criminal negligence. Definition of Medical Accident was discussed in meetings of Medical Council of India, but no notification or ordinance has been issued in this regard.

In such circumstances, it is difficult for doctors to do anything which will put them in a situation which will be adverse to their own interest. Doctors are reluctant to issue MCCD in MLC. It is difficult to change the mindset of medical professionals from what they have been trained traditionally.

However there is a silver lining in this situation. Kerala High Court passed an order that FIR should be recorded within one hour of getting information regarding violence against doctors and hospitals. Kerala Government passed an ordinance within one week of the brutal murder of Dr. Vandana Das. It passed an Act on 23rd September 2023, which was the strongest Act in the country till 6 months ago. Karnataka Government passed stronger Act by incorporating recommendation of Kerala Law Commission on 24th July 2024.

In order to reduce violence, it is necessary to improve doctor patient relationships. This can be done by reducing anxiety of relatives arising because of doctors asking to do postmortem medical examinations. In cases which are straightforward, if doctors issue a MCCD even if a MLC is registered, trauma to the relatives of the deceased can be reduced. Work-load on departments conducting PM examinations can also be reduced and the quality of their work will improve. Medical professionals therefore need to change their traditional mindset.

However, in view of rising medico-legal cases and increased punishment for medical negligence in section 106(2) of Bharatiya Nyaya Samhita 2023, doctors should take precautions while helping to reduce PM Examination, so that they are not subjected to any harassment and prolonged litigation subsequently. In this connection Medico Legal Society of India advises that after following the attached checklist and ascertaining whether cause of death can be easily determined;

a. Doctors should give a copy of information to be filled in by patients in triplicate. Sign acknowledgement on three copies and keep one for their / hospital record. **(Annexure A)**
b. Relatives of the patient can take the information sheet to the police and give no objection certificate for not conducting a PM report. **(Annexure B)**
c. Police may investigate the case and direct PM examination OR issue no objection certificate to the patients that PM examination is not conducted **(Annexure C)**
d. In medico-legal cases doctors should issue a medical certificate of cause of death (MCCD 4/4A) after getting NOC from police as per attached format above.

Medical professionals are advised to read the attached checklist, documents which should be in the custody of doctors and information to be issued to the patient along with annexures for NOC by patient and NOC by police and inform the association if they feel any change is required. This document is also being sent to all stakeholders such as the ministry of health of various states, commissioners of police and director general of police for their comments.

	Medico-Legal Society of INDIA MLS/ Reg. No. 1318/2022 Dt. 24/08/2022	Dr. Ashish Khatod Secretary, MLSI

Checklist for doctors for filling up a death certificate:

To begin with Make sure that you understand the difference between
Death Certificate(DC) and Cause Of Death Certificate.

Death Certificate : Form Number 6 Registration of Birth and death Act (RBD Act)
Section !2 & 17 of the same act. Issued by registrar Birth and death

Cause Of Death Certificate : Form 4/ 4A issued by the Medical Practitioner as per Section 3 RBD Act .
Before You Start writing a death certificate you are expected to do the following :

1. Diagnose Death : Physical Examination, EKG
2. Declare Death
3. Determine the cause of death : Case History, Examination

Before you start:

- [ ] Make sure you have the correct death certificate form for your state.
- [ ] Gather all of the necessary information, including the deceased person's name, date of birth, date of death, and cause of death.
- [ ] Verify the spelling of the deceased person's name with the next of kin.

When you are filling out the form:

- [ ] Be sure to print legibly and use black ink.
- [ ] Do not use abbreviations or acronyms, unless they are specifically listed on the form.
- [ ] List the cause of death in full, including the International Classification of Diseases (ICD) code.
- [ ] If the death was due to an accident or injury, be sure to include details about the circumstances.
- [ ] If the death was due to a natural cause, be sure to list the underlying medical conditions that contributed to the death.
- [ ] If the death was due to a homicide, suicide, or other violent means, be sure to indicate the manner of death.
- [ ] If an autopsy was performed, be sure to indicate whether the findings were available to you when you completed the death certificate.

After you have finished:

- [ ] Sign and date the death certificate.
- [ ] Print your name, title, and Registration number.
- [ ] Give a copy of the death certificate to the next of kin.
- [ ] Keep copy of MCCD if issued / letter issued to relatives / letter from police with case paper

Additional tips:

- [ ] If you are unsure about any aspect of completing a death certificate, consult with a medical professional who has experience in this area.
- [ ] Be respectful of the deceased person's family and friends, and be mindful of their emotional state.
- [ ] Remember that the death certificate is a legal document, so it is important to complete it accurately and in a timely manner.
- [ ] The death certificate is a legal document, so it is important to be accurate and complete.
- [ ] The death certificate will be used to track mortality statistics and to determine eligibility for benefits.
- [ ] The next of kin will need the death certificate to settle the decedent's succession formalities

Document which should be in the custody of doctor for each death certificate issued

Name of the deceased :

Age : Sex : Male / Female / Not known

History in brief :

Examination :

- ☐ Pupils : Bilaterally dilated, fixed, not reacting to light
- ☐ Eyes : Listless / lifeless, whether there is congestion or oedema of eyelids / ecchymosis
- ☐ Conjunctiva : Whether there is pallor
- ☐ Tongue : Protruding / inside mouth. Whether obvious signs of disorder?
- ☐ Ear : Any discharge / blood / cut marks?
- ☐ Nose : No air flow observed / felt on finger
- ☐ Head : No signs of injury e.g. blood marks, contusion, cut would in the scalp or on occiput.
- ☐ Teeth : Natural / Denture, broken / loose / normal
- ☐ Neck : No signs of bruising. Marks of rope etc
- ☐ Chest : No movements of chest wall
- ☐ Auscultation : No heart sounds, no breath sounds
- ☐ Electrocardiogram : Flat line (not required when other signs are obvious)
- ☐ Abdomen : Normal / Distended / No sounds on auscultation
- ☐ Back : No signs of bruising / injury / trauma
- ☐ Hands : No signs of bruising / injury / trauma / fracture
- ☐ Legs : No Signs of Bruising / injury / trauma / fracture
- ☐ Overall impression
- ☐ Cause of death :
- ☐ Whether issued on request of police / relatives of the patient
- ☐ Whether the necessary letter has been handed over by patient to police
- ☐ Whether the acknowledgement of above letter been submitted to you
- ☐ Whether the police have issued a letter to the relatives that post mortem is not planned/done
- ☐ Any other comments : E.g. If anyone tried to pressurize for issuing MCCD / Action taken by you

Information to be filled by Relative of deceased : Date :

Name _

Relation _

Address _

City _ _ _ _ _ _ _ _ _ _ _ _Pincode _ _ _ _ _ _ State _ _ _ _ _ _ _ _ _ _ _ _ _ _

Phone Number_ _ _ _ _ _ _ _ _ _ Aadhar Number _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _

To, _ (Enter Name)

The Superintendent of Police / Police Inspector _ _ _ _ _ _ _ _ _ _ _ _ _ _ station

I have been informed about death of my relative details of whom are

Name _

Address _

City _ _ _ _ _ _ _ _ _ _ _ _ _Pincode _ _ _ _ _ _ State _ _ _ _ _ _ _ _ _ _ _ _ _ _

Phone Number_ _ _ _ _ _ _ _ _ _ Aadhar Number _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _

I am aware that this was a medico-legal case and cause of death is

a. Haemorrhagic shock following road traffic accident

b. Pulmonary embolism/amniotic fluid embolism/disseminated intravascular coagulopathy / anaphylactic shock / severe drug reaction or similar unknown, unexpected, unforeseen event which can be termed as medical accident or any such cause which was beyond the control of treating physician / surgeon / gyneologist / specialist such as _

c. Filing of Medico Legal Case (was necessary / not necessary) in this case

As informed to us by Dr. _

Working as _ _ _ _ _ _ _ _ _ _ _ _ _ _ at _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _Hospital

I do not have any complaint against anyone as well as doctors who have tried to give treatment to the patient with good intention and adequate efforts were taken with due care to save the life of the patient, in-spite of which my relative has expired. I will not raise any complaint against the doctors if a medical certificate of cause of death is given by the doctors.

Date : _ _/ _ _/ _ _ _ Time_ _/_ _ Place_ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ Signature _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ Witness 1 _ _ _ _ _ _ _ _ _ _ _ _ _ _ Signature _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ Witness 2 : _ _ _ _ _ _ _ _ _ _ _ _ _ Signature : _ _ _ _ _ _ _ _ _ _ _ _ _	I acknowledge receipt of this letter signed by a relative of the patient above named in front of two witnesses named herein in triplicate. One copy is retained for my / record of the hospital. Signature of Doctor _ _ _ _ _ Seal (Please fix stamp here)

Appendix III NOC from Relatives (to be taken by the Police).

NOC must be taken by the police official as follows from the relatives of the deceased in cases where the police has not taken the decision to send the body for post-mortem examination:

To, Mr. / Ms..... Date: ...../...../.....

The Investigating Officer, Police Station.....

Subject: NOC for not doing the post-mortem examination.

Sir / Madam,

The cause of death of the deceased .....

Age.....Sex.....R/O.....is.....

.....as per the information given by the treating doctor. We agree upon the same cause of death and we have no objection / allegation / query regarding the same. Hence, we request you kindly not to do the post-mortem examination.

Witness (Name & signature) Name of relative:.....

Age.....

1. ..... Sex..... Signature:.....

Relation with the deceased.....

2. ..... (Son/ Daughter/ Mother/ Father/ spouse)

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Appendix IV (English)

Modification IV: NOC from Police (to be given by police to the relatives).

NOC must be given by police as follows to the relatives of the deceased in cases where the body is not being sent for post-mortem examination:

To, Mr. / Ms.....Date:...../...../.....

Relation with the deceased.....

Subject: NOC for not doing the post-mortem examination.

Sir / Madam,

This is the NOC given to you, that as per the information given by the treating doctor, the deceased ..... Age..... Sex..... R/O..... has died due to ....

We, the police, witnesses / (panchas) and the relatives agree upon the same cause of death and we have no objection / allegation / query regarding the same. Hence, no post-mortem examination WAS DONE in this case. Kindly take note of the same.

Signature: ..... Name of the I.O.: .....

B. No.: ..... Police Station: .....