Medico-Legal Cases Across Various Hospitals - A review & Understanding of Procedures

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Abstract

Medico legal case is a case of injury or illness resulting out of sexual assault, poisoning or any suspicious circumstances, where the attending doctor, after eliciting history of the patient and on medical examination, decides that an investigation by law enforcement agencies is essential to understand establish and fix the criminal responsibility for the case in accordance with the law of the land in the interest of truth and justice of victim/patient and state. However it is crucial to assess what factors aid a Health care provider in determining which case becomes medico legal and whether this is a uniform practice across hospitals in India.

Objective

The main purpose of undertaking this exercise of documenting various ways of deciding a medico legal case was to understand the mechanism employed by the hospitals/attending doctors for determining a medico legal case and understand the commonalities and differences in registering those cases across Private, Municipal and State Government hospitals.

Rationale

The centre for enquiry in to health and allied themes, CEHAT has been engaging with the health system with the aim of making the health services accessible and accountable to underprivileged people. Our first-hand experience through the Dilaasa project has demonstrated[1] that HCP's continue to feel apprehensive about dealing with medico legal issues. This was seen on a daily basis when all kinds of cases were termed MLC such as pregnant women who report fall, delivery of women in rickshaws and falls of patients in hospital wards. We were unclear about the rationale for these complaints being registered as medico legal. In our attempt to get clarity on the prerequisite for making a medico legal case, (MLC) we referred to the relevant literature taught to the medical students as a part of their curriculum. While the text book on medical jurisprudence by Dr Parikh defined medical evidence as having three components namely a) medical certificates i.e. death/ sickness and birth b) medico legal report such as injury report / post mortem report or c) dying declaration. The emphasis on such medical evidence is clearly stated to be in the context of criminal procedures where by such documentation is expected to be done by a doctor. (Parikh CK, Text book of medical jurisprudence and toxicology, 5th edition). The literature demonstrated that the government of India had set up an Advisory Committee in 1958 to monitor medico legal cases across the country. This committee submitted its report in 1964, in its report stated that the medico legal practices throughout the country have been found to be in most deplorable condition because of shortage of trained personnel in the profession, absence of even ordinary facilities i.e. transportation, cold storage, mortuary as well as the required instruments for the practice of the profession. Beyond this report there is no available literature on the functioning of this committee or whether their recommendations were taken up by the government of India. In the light of the limitations of literature we decided to conduct a systematic documentation pertaining to registering of a medico legal case across various hospitals in Mumbai.

Methodology

2 Municipal, 2 Government and 2 Private Hospitals were chosen to conduct such documentation in the city of Mumbai. We conducted interviews as well as guided discussions with groups of Casualty medical officers, senior medical officers, Medical Superintendents, Matrons, and Nurses as well as the Medical records officers. We used a set of questions to conduct these discussions. Themes for the guided discussions were pertaining to understanding the definition of medico legal cases from the participants, procedures pertaining to the MLC, roles of HCP's such as Doctors and nurses while responding to MLC cases, perceptions of HCP's about these MLC's, method of inducting new Doctors in to medico legal roles and dilemmas faced as a HCP while performing this role.

Data Analysis

Define a medico legal case

Experience of Municipal and Government Hospitals - Doctors stated that the system of recording Medico legal case, (MLC) was introduced in the hospitals 50 years back with the objective that a certain health complaint reported by the patient may have legal implications, this meant that such a case needs police investigation. Some Doctors classified medico legal cases in to three types, viz accidental, suicidal and homicidal.

Homicide cases were classified as those where the patients reported injuries arising out of assaults or sexual assaults against women and children. Other medico legal cases included alcohol intoxication, injuries due to burns, as well as inmates brought for medical examination from the prison or other government institutions. In one of the hospitals, at least 15 such patients from a prison were brought on a daily basis for examination. When probed about the nature of health complaints reported by the prison inmates, it was told that sometimes these inmates were assaulted by the police and subsequently brought for treatment of injuries. One Doctor was of the opinion that the hospital ought to cooperate with the police, as the inmates are criminals, so the police are not left with too much of a choice and have to resort to such tactics in order to extricate information from them. In instances of reporting related to sexual assault cases, one hospital had a protocol where in the patients reporting sexual assault are sent to the police station and only after an FIR is filed, a medical

[1]Dilaasa is a hospital based crisis centre aimed at responding to women facing Domestic violence. The rationale for setting this department was that health care providers are the first contact for women reporting health consequences out of Domestic Violence; therefore if HCP's are trained adequately they would be in the nest position to reach out to women facing DV.

examination is conducted. This is because they said that true Rape cases are brought only by the police and those reporting on their own need not always be true.

The second category was pertaining to motor vehicular accidents. The third category was pertaining to the Suicide cases, where in the patients were brought to the hospital after consumption of poison/unknown substance or had self inflicted injuries. This is because attempt to end one's life has been considered as an offence. However doctors also mentioned that most of the times they don't register it as suicide, because the family promises to take care of the patient, and patient is also traumatised, therefore they don't involve the police.

A senior medical practioner explained that even senior Doctors are unclear about the nature of cases that are MLC. He defined such cases as medical matters that have legal implication. He said that a prevalent myth amongst Doctors is that each medico legal case becomes a police case, which is incorrect. He provided an example of a patient needing age certification from a Doctor in a situation where a person is asked to retire compulsorily, in such instances referral could directly come from the court to the hospital to estimate age; therefore the police don't have any role to play. Another example provided by the doctor was that of disputed paternity. While in cases of disability where the person demands compensation through a civil suit, doctor's certification is adequate to determine the percentage of disability the person has.

But there are some MLC's, which are done in order to protect the hospital and the Doctors. They told us that on the face of it, some cases don't seem to have legal implications. But patients reporting such health complaints have reported to the police station in the past , when the police investigated the case and found out that the underlying causes were attempt to murder, they blamed the hospital for not making a medico legal case and informing them in time. He also said that if the police dispatch a directive, then the hospital is bound to make an MLC, whether it is warranted or not. One of the Doctors stated clearly that they did not want to get in to trouble for not consulting the family while providing abortion services; therefore either a woman should get her partner to sign the document stating that she wishes an abortion or else she becomes a medico legal case.

Experience of Private Hospitals

The scene in private hospital was different, both senior nursing staff and senior medical officers from private hospitals listed cases of medical negligence as the only MLC cases reported in their hospitals. Examples such as patient going in to coma few hours after surgery, or patient diagnosed with a foreign body left inside the body after going through a surgery or wrong medicine prescribed by a doctor that has caused danger to the patient's life were termed as MLC. Senior health professionals were of the opinion that there have been cases of allegations put by the patients after their discharge, regarding the quality of treatment, this reflects badly on the hospital; therefore making an MLC secures the position of the hospital by asking the police to investigate the matter. They clearly stated that complaints such as assaults, rape, and murder, are not reported in the class that they cater to.

Nurses defining medico legal cases

When we spoke to nurses across different hospitals to understand how they perceived medico legal cases, they said that they had to take care of the patient in their duty hours irrespective of the kind of case. Therefore they did not see MLC cases as different from other health complaints reported in the hospital. the role of nurses in MLC cases is restricted to informing the CMO if the patient disappears from the ward or becomes unconscious. But they were not able to explain the rationale for it. One matron said "There have been instances where the doctors had put the blame on the nurses for such cases. Therefore we have to inform the casualty medical officers and an MLC is registered".

Role of Police Constables in MLC.

Both government and municipal hospitals had police constables stationed outside the casualty department where as private hospitals did not have this provision. The police constable stated that his role was to determine the under- sections and charges to be pressed for a specific medico legal case. He stated that the doctors determine whether the injury is serious or simple. He was of the opinion that attempted suicides should not be called as such as this ruins the family. He admitted that torture cases by police are brought to the hospital but was of the opinion that no crime.can be investigated in the absence of torture.

Protocol for filing an MLC

A Doctor who occupies the post of a casualty medical officer (CM0) records a medico legal case in Government, Municipal and Private Hospitals. But in reality a Medical superintendent or a Medical Director in case of private hospital also record an MLC. Recording an MLC includes seeking history from the patient and conducting a general examination, after which the CMO send a calls to the specialist doctor such as gynaecologist/ paediatrician/ surgeon or orthopaedic specialist. The patient is then taken in to examination by the specialist doctor. An in-depth examination is done and treatment is provided. In case of serious medical condition, patients are admitted as there is a need for clinical management in the hospital itself. When patients are admitted to the hospital, the police from the respective jurisdiction are called to record the statement from the patient. We enquired as to whether consent forms, a component of the protocol of registering a medico legal case .Most Doctors told us that they have to seek a valid consent for conducting a medical procedure. In case of patients under 18, it is sought from the guardian or parents. However most were of the opinion that patients come to the casualty because they want to get their complaint registered as an MLC, further because this is a legal requirement on the part of the doctor, even if a patient doesn't want an MLC, they have to make it because it is mandated by the law. One of the doctor also stated that if they strongly refuse it, then patients have to give it in writing with their signature on it.

Though the protocol is that only a senior medical officer should attend court calls, this doesn't translate in reality. This is because the cases for hearing come after several years, hence the same doctors may not even be available. In those situations, other doctors have to appear in the court. This causes discomfort amongst the Doctors, because they are often unaware about the case but are expected to go to the court based on the documentation of other doctors.

III Dilemmas faced by Health Professionals vis a vis registering Medico legal cases

- A dilemma raised by Casualty medical officers, (CMO) in one of the public hospitals was that their hospital has a casualty department, but they lack the basic infrastructure to run the casualty. So the CMO does an administrative job by documenting the case as MLC in the register and refers the case to another hospital. He was of the opinion that only those hospitals consisting of major departments such as radiology,

orthopaedics, surgery; intensive care units should have a casualty department. But given the circumstances, they cannot refuse recording an MLC, neither are they able to provide the required holistic medical assistance.

- Another dilemma voiced by some of the CMO's was pertaining to the pressure they face from the higher authorities for recording an MLC, even when the health complaint doesn't fit the MLC requirement. However they cannot challenge the authority and often succumb to such pressure. An example was given of a patient who was admitted to the hospital, in the course of her hospital stay she became unconscious, the CMO was pressurised to make an MLC, however the CMO's stand was that if the patient was not brought unconscious to the hospital, an MLC should not be filed, if he has become unconscious in the course of his hospital stay, the examining doctor should know the reason for it. But he had to make an MLC.

IV Mechanism of induction in Medico legal role

None of the hospitals have a formal induction process for a new CMO to take on the Medico legal role. Therefore often CMO's did not have the space to raise their dilemmas and concerns. The only way to learn is by putting the fresh casualty medical officer with a senior CMO for a period of six days. In this time frame, the new CMO is expected to learn the procedure and understand what are an MLC case as well as the process of registering it. Most Doctors felt that determining as well as documenting and treating medico legal cases should be the role of the forensic doctors, but because there were fewer forensic doctors, this work was being shouldered by other doctors as well. The senior personnel from private hospitals stated that they do not receive cases of Rape, assaults, suicides and homicides; so it isnot a feasible option to train their doctors in medico legal cases beyond what is taught in the MBBS. Further because there is a huge turnover, it is difficult to develop an induction process as this requires a long time.

The nursing staff clearly voiced their concerns about the gap in their academic curriculum vis a vis Medico legal cases. A senior nursing professional stated that because nurses are in the ward and responsible for the smooth functioning of the ward, Doctors often blame the nurses for misinforming or delay in informing when it comes to medico legal cases. One nurse narrated an incident where in the patient died on the operation table, she was blamed by the doctor for not providing sterilised equipment. As nurses are unaware of the medico legal aspects of a case , they are unable to defend their actions

Discussion

This exercise has clearly demonstrated that Doctors register medico legal cases whenever they are in doubt, however not much analysis goes in to probing for further history pertaining to a specific health complaint and then determining whether it has medico legal implications, this has led to a rampant MLC registration for all women seeking MTP, those reporting epilepsy as well as falls in the hospital. Added to this unnecessary registration, most doctors feel that this is not a part of their role at all, and that this should be done by the forensic doctors, leading to a very skewed understanding of their role as clinical management. This contradicts their MBBS qualification, which provides them with knowledge about basic medico legal issues, therefore their role is dual where in they are expected to provide treatment as well as fulfil their medico legal role.

Their understanding via a vis their medico legal role is limited to activating the police machinery. they believe that determining whether a particular health complaint is accidental or suicidal is the role of the police and not a health professional. This in spite of the fact that health system has been identified as a key sector in identifying reasons for a certain health complaint as well as documenting good quality evidence in cases of medico legal issues such as suicides , homicides, sexual assault/ domestic violence and child sexual abuse. In the current scenario, the nursing cadre plays an insignificant role in handling the medico legal cases. Though they play a crucial role in caring for the patient, they have no powers in the medical hierarchy. This has led to them becoming puppets in the hands of the doctors. Not having the in-depth information regarding medico legal case often leaves them in a powerless state.

As most MLC cases are looked at with suspicion on the part of HCP's, they fail to understand the concept of seeking informed consent. In fact HCP's are of the opinion that there is no question of consent while registering an MLC. We can clearly see that HCP's at this point are unable to understand the finer nuances between ethics and the law and their responsibilities towards the patient. The minute a medico legal case is registered, the patient is enmeshed in to the administrative rigmarole of the hospital with little importance given to the care required by the patient. Added to the current problems, is the fact that all the hospitals lack a formal induction process; therefore the current system is unable to address the problems and obstacles faced by HCP's in addressing the issues pertaining to medico legal cases.

Conclusion and Recommendations

Due to the ambiguity in the understanding related to the registering of medico legal cases, more and more HCP's are looking at medico legal work as a burden; this has led to an increase in practice of defensive medicine. Therefore there is a need to increase awareness on the role of clinicians with respect to their ethical responsibilities as providers. There is also a need to formulate standard operating procedure (SOP) in the context of Doctors, nurses and police and their respective medico legal roles.

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