

Medico Legal Update

Punjab Medicolegal Manual General Guidelines for Medical Practitioners

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Abstract:

Govt. of Punjab Medicolegal Manual was drafted by certain amendments in the guidelines for conduct and examination of medicolegal cases in the State of Punjab keeping in view the multiple difficulties being faced in medicolegal and post-mortem working. The manual is a combine of the original Punjab Medical Manual with inputs incorporated from the relevant latest other Indian state, national and international guidelines relating to the medicolegal examination of living and dead persons along with the practical experience of forensic medicine and other experts.

Key Words:

Medicolegal Manual, Post-mortem, Domestic Violence, Consent, Registered Medical Practitioner, Dying Declaration, Third Party, Summons.

Introduction

Govt. of Punjab Medicolegal Manual [1] is the document issued by Government of Punjab, Department of Health and Family Welfare vide order dated 17.01.2019 with instructions on conduct of medicolegal examination including post-mortem examination. The manual contains detailed guidelines for medical practitioner directly dealing with medicolegal and post-mortem cases in particular and for all doctors in government as well as private set up in the state of Punjab in general. In this paper, only the general guidelines for medical practitioner dealing with such cases are being discussed in a simplified approach in the light of the original Government manual with focus for better understanding of the doctors in the interest of their patients and the law of the land.

General Guidelines:

1. The first and foremost duty of the treating doctor is to save the life of the patient and start necessary treatment with immediate effect followed by police information if required and as early as possible for patients labelled as medico-legal cases.
2. Except patients with natural disease or illness, all other cases including suspected unnatural, foul play, sexual assault, suspected criminal abortion, unconscious, brought dead, persons in police or judicial custody, domestic violence, child abuse and alleged medical negligence, can be labelled as Medico-Legal Case (MLC).
3. Consent is not required to label a case as MLC.
4. There is no prescribed duration in which a case is to be labelled as MLC.
5. Ideally it is the duty of the first attending doctor (Casualty Medical Officer) to label the case if MLC but the next attending doctor can do this job if missed by the first attending doctor with information to the concerned hospital authorities.
6. MLR can be prepared on police request or by direct request from the patient / victim by any Registered Medical Practitioner with medical

qualification as defined in the Indian Medical Council Act, 1956.

7. Police Information: It is duty of the attending medical officer / doctor to send information of the case to the concerned police station directly or indirectly by the quickest possible means giving relevant details and keep record of the same followed by entry of the other details in the admission register.
8. The first page of the file and the patient card be labelled as "Medicolegal Case".
9. Consent:
 - a) Written consent of the patient / victim is mandatory for examination and prepare MLR. Consent of the guardian or the accompanying persons will be taken if the examinee person is aged below 12 years. Consent of family / guardian be taken in case of unconscious / semiconscious person. Under Section 53 and 53-A of CrPC, consent is not required for examination of accused person. If consent refused, the doctor will mention it on admission file as informed refusal with their signatures.
 - b) Consent is not required for sending police information.
10. Minimum two identification marks of the patient / victim to be recorded.
11. Brief history of the incident should be recorded.
12. The medico-legal report (MLR) shall be prepared legibly as per prescribed manual / computerised format (MedLeaPR).
13. The name, designation, registration number / mobile number of the examining doctor will be stated, preferably in capital letters, at the bottom of the report.
14. The report will be prepared providing copies to the police; hospital/departmental record; indoor file in case of admitted patients. Patient may also be given a copy of the MLR on request, or if the same is required for the purpose of further treatment at any other health institution.
15. All medicolegal cases shall be charged fee as prescribed by the State Government or the concerned institution. Exemption from payment of fee mentioned above, will be as per government notification. All cases examined on

written police request will not be charged fee.

16. The medico legal report should be handed over to the police, as soon as possible, after the examination.
17. Medicolegal report (MLR) should not be written in the presence of a police officer, patient's relatives or any other interested party.
18. A female patient should not be medico-legally examined (in non-sexual assault cases) without the presence of a relative (preferably female) of the patient or a woman hospital attendant.
19. In case of sexual assaults especially of child, the examination must be conducted by a female doctor
20. Dying Declaration and Statement:
 - a) If a patient is likely to expire as a result of injuries (including burns) or alleged criminal act, immediate arrangement should be made to get his/her dying declaration recorded.
 - b) The Medical Officer / doctor will ask the police officer on duty in writing to call a magistrate or if there is no time to call a magistrate, the Medical Officer may himself record the dying declaration keeping in view the legal provisions in this regard.
 - c) The dying declaration should be recorded in the presence of another doctor or staff member on duty who will witness the statement and will append his signatures at the bottom of the declaration.
 - d) The Medical Officer recording the statement should certify that the patient was conscious and in sound state of mind when the statement was recorded and remained so till the statement was completed.
 - e) The signature or thumb impression of the patient be obtained on the dying declaration after the same has been read over to him/ her.
 - f) No other person be allowed to interfere during the recording of dying declaration.
 - g) In case of a patient who is not fit to make a statement, the reason should be noted and duly explained in the file.
21. Death of medico legal case:
 - a) Whenever a medicolegal case dies, the police officer I/C of the police post/police station of the

area should be informed immediately and a note to the effect be recorded on the file of the deceased.

- b) When the body of a medicolegal case is sent to the mortuary, clear instructions should be given to the mortuary staff, not to hand over the body to the relatives.
- c) The body shall be transported to the mortuary with dignity and proper body identification tag.
- d) Name of the ward attendant or any other employee / police staff transporting the dead body shall be recorded in the mortuary register / file / OPD register.

22. Hospital Record:

- a) Original hospital record/file of the medicolegal case should not be handed over to the police authorities. However, original medicolegal X-rays may be handed over to police under receipt.
- b) If the police requests MS/RMO/SMO/MO/ in charge for the original record of a case, they should be given an attested photocopy.
- c) At times, the Courts ask for the original record. In such cases, duplicate/photo copy shall be retained for record. The original file/X-Ray plates are then submitted to the Court under receipt.

23. Medico legal report/PMR to individuals other than the patient and the police officer investigating the case:

- a) A medico legal report or post mortem report given by an expert is confidential and not a public document. Copy of the PMR/MLR may, however, be given to authorized person on written request and payment of prescribed fee. Alternatively, the applicant shall produce order of the Court directing the Medical Officer concerned to provide him/her attested copy of the PMR/MLR.
- b) Requests by third party for copy of PMR/MLR under the RTI Act are not maintainable.

24. Taking away a patient or body of a medicolegal case forcibly by the attendant.

- a) The Medical Officer cannot forcibly detain a medicolegal case or the body.
- b) In case the attendants insist for taking away a medicolegal case/ body, the Medical Officer should get it in writing from the attendants that they are taking away the patient/body against medical advice.

- c) If they refuse to write anything and take away the patient/body, the Medical Officer should record the same on the file of the patient.

- d) In such cases MS/SMO/Police Station of the area and security staff be informed immediately.

25. Summons:

- a) Summons from the courts should always be accepted.
- b) In case particulars of the case i.e. name the patient, date of admission etc. are not mentioned on the summons and the Medical Officer is not able to trace the case file etc., then the court may be requested to supply the relevant particulars.
- c) In case, one cannot attend the court because of unavoidable circumstances, an official communication should be sent to the Court well in time.

26. Court evidence:

- a) Assume a comfortable but dignified position in the witness box.
- b) Do not use complicated medical terms, use simple layman's language.
- c) On the witness box, your duty is to answer the questions and not to lecture to the court, or argue with opposition counsel.
- d) The witness must tell the truth, the whole truth, and nothing but the truth. Stick to the facts and do not let your-self be led away into the realm of speculation.
- e) Maintain your composure. If a medical witness has made accurate report of his findings, is truthful, unbiased, remains composed, and is fair in all his opinions, his integrity and professional reputation will remain untarnished.

27. T.A / D.A on Government / Private Cases:

- a) TA/DA will be paid as per Govt. Rules by the court/party/department.
- b) In a criminal case, doctor is given a certificate of court attendance which enables him to draw his Travelling and Daily Allowance from his department.
- c) In case where the doctor is not granted the TA/DA by his department/institution then the same may be granted by the court.
- d) In civil cases a fee called 'Conduct Money' should be paid or assured to be paid when the summons are delivered.

- e) The summons of a court should always be obeyed as first priority.
 - f) Doctor should be prompt and punctual in his attendance and not leave the court without permission of the presiding officer. Doctor must obey the summons irrespective of the fees.
28. Board of Doctors for Medicolegal / Post-mortem cases:
Board of Doctors may be constituted by the Civil Surgeon / Medical Superintendent / SMO / In-charge of Institution / Faculty of Forensic Medicine on the receipt of specific written request from the Police.
29. Information under the Right to Information Act:
The Public Information Officer (PIO) can claim exemption u/s 8(1) (e) & (j) of the RTI Act if information pertaining to a victim/patient is sought by a third person.
30. Age Estimation:
- a) A board of doctors may be constituted including Radiologist / Dentist / Orthopedician / Forensic Medicine Specialists / etc. as available.
 - b) In case of examination of Female is required, a female doctor should preferably be part of the board.
 - c) Any old certificates showing age, produced by the person may be consulted.
 - d) Physical examination, Height, Weight, General build, Voice, Adam's apple, Hair scalp facial pubic body axillary chest, Breast, External genitalia, Menarche / Ejaculation, Date of last menstrual period (for females).
 - e) Dental examination, number, Temporary, Permanent.
 - f) Radiological examination: Shoulder, Elbow, Wrist, Pelvis, Skull & jaw.
 - g) Opinion: Based on physical, dental and radiological findings.
- Post Mortem Examination:**
31. Officers authorized to conduct post-mortem examination:
- a) Civil Surgeons and SMO/Medical Officers of the State.
 - b) Faculty/doctors of Government Medical Colleges
 - c) Any other doctor specifically authorized by the government in this regard.
32. Objectives of PME:
- a) To know the Cause of death.
 - b) Time since death.
 - c) Time of injury.
 - d) To help the police in establishing the identity of the deceased.
 - e) Any other query by the investigating officer.
33. Consent/Permission from relatives for autopsy
Consent or permission of the relatives is not required for conducting a medico legal post-mortem examination.
34. Authority to conduct a medicolegal post mortem
- a) A medicolegal post mortem (forensic autopsy) can be conducted only after a written request has been made by the police or magistrate.
 - b) A medicolegal post mortem examination can be conducted only by a medical officer who has been authorized to do so.
 - c) It may however, be noted that no medicolegal Post-mortem examination is permitted to be conducted after sunset, unless there is serious threat to the law & order machinery and a request to that effect is received from the District Magistrate, as the case may be, specifying the reason in writing.
35. Important Guidelines for conducting the PME:
- a) Written request/ requisition along with copy of the inquest report from competent authority like police or magistrate.
 - b) The Inquest Report include Forms 25.35(1) A, B or C, according as the deceased appears to have died (A) Sudden death from natural causes, (B) Unnatural death by violence and (C) Unnatural death by poisoning. Form (C) is filled in addition to Form (B).
 - c) Post-mortem examination is permitted from sunrise to sunset.
 - d) The identity of the dead body must be confirmed by the relatives/police before the start of the PME.
 - e) Don't allow any unauthorized person in the mortuary while PME is going on.
 - f) Medical Officer should not borrow the version of the relatives or the police while giving opinion, which must be based objectively on the scientific evidence and observations available.

- g) Prepare the PM report simultaneously and at the earliest and hand over a copy to the police immediately.
- h) Hand over the PM report and other articles only to an authorized police official i.e. to the investigating officer of the case or any other official duly authorized by him.
- i) Do not supply copy of the medico legal report /PMR to individuals other than the police officer investigating the case or immediate family.

36. Referral of body for post-mortem:

- a) There should be no unwanted referral of routine post-mortem cases like poisoning, accidents, gunshot, etc.
- b) Only controversial police cases in which the cause of death is burns, drowning or hanging may be referred with due concurrence and countersign of the respective Civil Surgeon or the SMO (under information to the Civil Surgeon), on the referral request from the concerned medical officer.
- c) The districts of the state which have forensic expert posted should not refer a post-mortem case to the medical colleges.
- d) Referral of post-mortem case be done to the Medical College under whose referral jurisdiction the district falls under, explaining the reasons and grounds for referral, with legible names, designation and signature of the referring Medical Officers with countersign by the Civil Surgeon.
- e) Putrefaction and DNA sampling should not be a ground for referral.

37. Exemption for Post-mortem:

- a) The decision to exempt post-mortem is not to be taken by the doctor.
- b) As per Punjab Police Rules Section 25.36 (2), an investigating officer is empowered by law with the discretion to dispense with a surgical (post-mortem) examination of the body, if he is fully satisfied that the cause of death is established beyond doubt. A copy of such written authorization should be retained in the hospital and necessary entry made in the mortuary (dead body) register.

38. Video recording of Post-mortem Cases

- a) Videography of Post Mortem Examination may be done by the Police Department wherever they

require. Equipment and manpower required for videography shall be arranged by the Police Department.

- b) The Video recording, (hard as well as soft copy) would be retained with the police department after sealing and labelling by the duty doctor.

39. Supplying copy of MLR/PMR to individuals other than police officer investigating the case:

- a) A medico legal report or post mortem report given by an expert is confidential and not a public document.
- b) Copy of the PMR/MLR may, however, be given to authorized person on written request and payment of the prescribed fee.
- c) Alternatively, the applicant shall produce order of the Court directing the Medical Officer concerned to provide him/her attested copy of the PMR / MLR.
- d) Requests by third party for copy of PMR/MLR under the RTI Act are not maintainable.

The Registered Medical Practitioners have rights and privileges, but at the same time they have certain duties towards their patients and society in general. The practitioner has the right to choose patient except in emergency, add titles, qualifications after his name, right to practice and dispense medicines, right to possess and supply dangerous drugs to his patients, right to recovery of fee, right to give evidence as an expert, right to issue medical certificates and right to appointments to public and local hospitals. As a part of his duties, he has the duty to exercise a reasonable degree of skill and knowledge, legal duty to render service and various other duties [2] including general duties and responsibilities.

Medical practitioners must be aware of the legal implications of their medical practice. They should be familiar with the various statutes, rules and regulations that are in force, and which have been enacted by the Central or State government, as well as possess a working knowledge of the functioning of the statutory bodies and Medical Councils [3].

Conclusion:

The updated guidelines in the Punjab Government Medicolegal Manual will go a long

way to fulfil the desired goals in the medicolegal examination of living and dead persons in the state of Punjab with clear directions to the medical practioners dealing with such cases and the doctors should remain updated in the interest of justice to the living as well as dead persons.

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