

DUTIES AND LAWS RELATED TO MEDICAL PRACTITIONERS IN CASE OF POISONING: A PEER REVIEW

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ABSTRACT

The article deals with the duties of registered medical practitioner (RMP) to make the profession efficient as well as legal. One should have knowledge in offering immediate first aid i.e. having priority in life saving and thereafter the procedural Criminal law should be allowed to operate in order to avoid negligent death. The doctor attending the patient has to fulfill his duties, first as a medical professional then as a medico legal professional. The attending doctor in private hospitals has to notify cases of homicidal poisoning to police and every case of poisoning has to be notified in case of government hospitals. Later preservation and collection of biological exhibits as evidence so that the analysis of material may be done which may be helpful to the investigating officer for further perusal of the case. Detailed written records should be made with respect to every case of poisoning and death certificate should not be issued unless post mortem has done to rule out the cause of death.

Keywords: Duties, Poisoning, Imprisonment, Preservation and IPC sections.

INTRODUCTION

Poisoning both accidental and intentional is a significant contributor to mortality and morbidity throughout the world. According to WHO, 3 million acute poisoning cases with 2, 20,000 deaths occur annually, out of these 90% of fatal poisoning occur in developing countries particularly among agricultural workers¹. Agriculture is backbone of India and about 70% of population who lives in villages, their main occupation is farming. In India suicidal, homicidal poisoning are more common when compared to Western countries due to easily

availability of poisonous substances and weak laws for governing on availability. The commonest cause of poisoning in India being agriculture based economy, poverty, illiteracy, mental conditions and easily availability of highly toxic pesticides¹. Accidental poisoning is also more common due to various animal bites mostly by snakes and scorpions and greater use of chemicals and pesticides for agro industries and domestic purposes. In India, the common poisons are insecticides¹, pesticides such as organo phosphorous¹, chlorinated hydro carbons¹, Aluminum phosphate¹, snake bites

and scorpion bites. So whenever a victim of poisoning is brought to a medical practitioner, even though it is a medico-legal case, the prime responsibility of a doctor “to save the life of patient”², second informing to police and it should not be left.

MATERIAL AND METHODS:

The commandments to be followed by all the doctors in cases of suicidal, homicidal and accidental poisoning includes both medical and medico legal duties.

Medical duties includes³

1. Diagnosis of suspected poisoning
2. Treatment of suspected poisoning
3. Secrecy
4. Timely referral

Medico legal duties includes³

1. Collection of evidence
2. Preservation of evidence
3. Legal case register

Acute poisoning forms one of the commonest causes of emergency hospital admissions. Pattern of poisoning in a region depends upon variety of factors such as, availability of poisons, socio economic status of people, illiteracy, religious and cultural influences.

Following points must be kept in mind while treating these cases at clinic level or hospital:

1. As the cases of poisoning are brought to the nearest available hospital, a registered medical practitioner who is in Govt. service has no right to refuse a poisoning case but a private medical practitioner has right to refuse but not in life threatening situation under code of ethics⁴.
2. The first and the foremost are the care and treatment of the patient^{2,4}, without wasting any time the doctor should try to

save the life of the patient by efficiently treating him.

3. On mere suspicion he should never give a verbal or a written opinion until and unless he is sure about the case from
 - Symptomology²
 - The history of the patient²
 - Toxic analysis
4. Take the details of the patient i.e. age, sex, address; date, time, identification marks etc⁵.
5. It is compulsory to make a written record of all the findings and treatment administered⁶ as it is useful in a suspicious case of poisoning if it is petitioned in the court of law.
6. If death occurs while giving treatment, a medical practitioner must remember that “he is protected against any harm done in good faith to a patient without consent of a person in an emergency situation ethically as well as legally as per Section IPC 92”⁷.
7. A Govt. medical practitioner should inform all the cases of poisoning which include homicidal, suicidal and accidental⁸ and a private medical practitioner must inform mainly homicidal cases⁸ but to be on safe side, should inform all the cases to police officer or magistrate under section Cr.P.C 39^{5,6,9} and are punishable if not informed.
8. Under section IPC 176^{5,6,9}, a medical practitioner is punished with an imprisonment of one month or fine up to 1000/- rupees or both, if a case of poisoning is not informed to police.
9. Under section IPC 193^{5,6,9}, a medical practitioner is punished with an imprisonment of 7 years if he/she is not

- giving details about the poisoning case i.e.; giving false information.
10. In case of suspected homicidal poisoning, it is advisable to consult another practitioner, preferable a senior. A doctor should take every precaution in suspected poisoning to prevent the possibility of further administration of poison to the patient directly or indirectly by eatables brought by friends/attendant's and no one can obtain access to his medicines except the nursing staff¹⁰.
 11. Two well trained nurses may be employed with instructions that nothing should be given to him by anyone except by either of the nurses¹⁰.
 12. In every case of suspected poisoning a medical practitioner whether in private practice or Govt. must preserve all the evidence such as vomited matter, first stomach wash contents and samples of blood, urine and feces passed in his presence which likely to contain poison in a separate wide mouthed glass bottles with glass stoppers tightly fitted^{5,6,10}. They are properly labeled with name of patient, material preserved, date and time of collection and are send to forensic lab for further examination³.
 13. Under section IPC 201^{5,6,7}, deliberate omission to collect and preserve the evidence, a medical practitioner is awarded punishment up to 7 years imprisonment.
 14. Recording of dying declaration is necessitated by calling magistrate and the doctor should declare that the patient is of Compositus mentis (of sound mind). If the patient's condition is serious and there is no time to call a magistrate, the doctor himself should take the dying declaration in the presence of two witnesses^{10,11}.
 15. Death certificate should not be issued in the case of poisoning unless and until postmortem is done for ruling out the cause^{6,8}.
 16. In case of food poisoning originating from public eatery (functions, canteen, hotel etc.), public health authorities must be notified^{6,10}.
 17. Records and documents properly kept can become defense shields for the doctor in the court of law.
 18. Records of poisonous cases are preserved for a time bound of 3 years¹².

DISCUSSION:

Due to agricultural based economy, poverty, illiteracy, weak laws in availability, and mental conditions, the cases of poisoning are more common in India. As most of the cases of poisoning are acute, immediate emergency management should be done. A registered medical practitioner is required to observe certain prescribed rules of the conduct contained in Code of medical ethics while performing his duties. The registered medical practitioner while performing his duties i.e. treating the patient and he does with intention to save the life of the patient and in some cases if he forgets/tries to give false information, not informing to police, hiding the cause of death he is legally efficient for awarding the punishment because the intension with which any act is committed is an important element in law. Last but not least every registered medical practitioner shouldn't forget his duties; if he /she do, they are liable to fall under misconduct and are punishable by law.

CONCLUSION:

The doctor in cases of poisoning should not refuse to treat the case due to fear of legality.

He should treat the patient efficiently and adhere to the other legal duties like proper collection of the exhibits for analysis, reporting the matter to police officer or magistrate where required, recording of dying declaration if needed, handing over the dead body if the person dies to police for further investigation in the event of death without issuing death certificate. By performing his duties both clinical and legal, the doctor not only helps the patient but also helps himself by not omitting his duties.

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