Emergency Care and Law

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CAHO
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ASQua
ASIAN SOCIETY FOR QUALITY IN HEALTH CARE

10 Common Questions

1. What's my duty of care in case of emergency and transfer?
2. Consent in emergency
3. Selecting a treatment option in emergency
4. The MLC dilemma in ER / Death certificate & Autopsy
5. Documentation in ER
6. Admitting and continuity of critical care in ER
7. Getting super specialist advice in ER
8. DNR
9. Payment for care in ER

What's my duty of care in an Emergency?

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72-year-old dies in ambulance in Kerala after three hospitals deny admission

The septuagenarian was suffering from pneumonia and was prescribed the medical college for expert treatment by a hospital in Kattappana on Wednesday.

8 June 2019

KERALA

Turned back by 7 hospitals, victim dies

Special Correspondent

KOLLAM AUGUST 07, 2017 19:19 IST
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Case against six hospitals for not admitting the seriously injured accident victim

A case of culpable homicide not amounting to murder, under Section 304 of the Indian Penal Code, is being registered against at least six hospitals in Kollam and Thrivananthapuram districts for refusing to admit a seriously injured victim of a road accident resulting in his death seven hours after

What's my duty of care

Every doctor whether at a Govt Hospital or otherwise has a professional obligation to extend his service with due expertise for protecting life

Such obligation is TOTAL,ABSOLUTE and PARAMOUNT

Don’t delay citing Medico legal case

Paramanand Katara Vs UOI SC 1989

Emergency medical treatment is a right

State under duty to improve its facilities

Paschim Banga Khet Mazdoor Samithy Vs State of westbengal

But I am an ophthalmologist!

- Every MBBS doctor is competent to accept / manage emergency patients and atleast provide first aid

- Shift even without first aid – If its absolutely outside scope and " RACE AGAINST TIME" not fear of legal proceedings.

- Refusing to treat = Contempt of supreme court

Dr A K Manocha Vs Mrs Savita Gulyani Delhi CC

Consent in emergency

- A 16 yrs old boy in ER with scalp laceration secondary to fall in school hostel. needs Suturing under LA.Parents live abroad.

- 30 yrs old RTA patient unconscious with no attender, bought by a good Samaritan.Needs urgent procedure

- Paternalism
- Consent needed?
- From Whom?
- Adult.Minor.Mature Minor

Consent in Emergency

- Obligation is total, absolute and Paramount
- Doctor is duty bound in case of emergency
- No formalities including Consent

- **Paramanand Katara V s UOI 1989 (RTA)**
- Dr T T Thomas Vs Elissar (Appendicitis)

Documentation & Emergency

Manage first Vs document First ?

What's your choice ?

- Manage first and Document next ?
- Document first and Manage next?
- Manage first, no need for document?
- Excellent documentation, No Management?

ED Scenario

- 70 yrs old patient with shock in ER.Cardiac arrest.No ROSC.Alleged Atropine not used for resus (not evident in billing)
- Patient died and attenders allege negligence

- What do you think ?

B K Sood Vs Alchemist Hospital 2014
HaryanaCC

ED Scenario

- ER case.ACS.Cardiac arrest and died.Time of arrival and death was documented as same as you have written ED notes after resus effort and declaring death.

- Attenders allege negligence

Timing in ER notes

- Praveen Gandhi & Ors Vs K N Singla ,2014,NCC

- “Unintentional and made during dire emergency situation – Not Negligent”

Documentation in ED

- Must,AFTER management
- Courts are generally lenient on “formalities” but not “Management”
- Emergency treatment is absolute and paramount.

Payment for emergency case

- RTA two wheeler. Two friends injured.
- One admitted and other one not admitted as 20000 admission deposit could not be paid by him. Referred out. Died on way to other hospital

- Are you negligent or not?

- Harmek Singn and Anr Vs Badyal Advanced Bone and joint Hospital,2012,Punjab CC

- **Exemplary penalty – No person should die due to an act like respondent 2 (Doctor)**

Treatment choice in ED

- In your ED you have a case of AMI.
- You preferred to Thrombolise and thrombolysis was done.
- Fails and later undergoes plasty
- He alleges that he should have been taken to plasty at first instance

- Are you negligent ?

Accepted medical practice

- R B Shrivastava Vs Apollo Hospital,2011,Chattisgarh state Consumer Commission

- Plasty Vs Bypass

Choice of treatment in ED

Case 1 : You get a case of snake bite in ER

- You start ASV 2 Vials and after 7 hours transfer to other hospital. Patient dies, Attenders raise negligence that ASV dose not adequate

Case 2:You get a case of snake bite in ER

- You start ASV 14 Vials and after 7 hours transfer to other hospital. Patient dies, Attenders raise negligence that ASV dose high and unnecessary .

- Negligent or not ?

Unclear clinical protocol

- B Beena & Ors Vs KVM MS hospital,2011,NCC – 2 ASV dose
- Dr P V Nair vs Allettutty Jose,Kerala CC,2012 – 14 vials

- Great Variablity in modality of ASV administration
- Not Negligent in both

Getting a super specialist at night to ER

- During 2 AM you receive a Acute ischemic stroke.You infrom the Neurologist and Neuro has asked you to go ahead and thrombolyse as time window will be lost by the time neuro comes to see

- Can you or not?

Sick patient – Died in ER during treatment

Emergency Treatment given by RMS on the telephonic instructions form the specialist was legally correct.

Documentation importance

Consumer protection council & Anr Vs Thiruchi Specialty hospial ,2014,NCC

Treatment choice - Summary

- Accepted Literature
- Doctors choice to chose “among the accepted practice in accordance with supportive literature”
- Reasonable care
- You can pick the “Next best option” if patient does not consent for first option (with proper explanation and documentation) **(Dr Kapil Dev Sharma Vs Saroj Bala,2014,Haryana CC)**
- Duty of care in EMERGENCY – When the emergency ceases to exist

No Beds in my ICU

- Case of Dengue shock needs ICU for atleast 3 days.No beds in ICU.
- Admin advices to admit him in the ER and continue to manage as “ We don’t want to loose a customer”

- What do you think ?

- Mr Fakir Chand Vs Medical Superintendent,Saftarjang Hospital,NCC

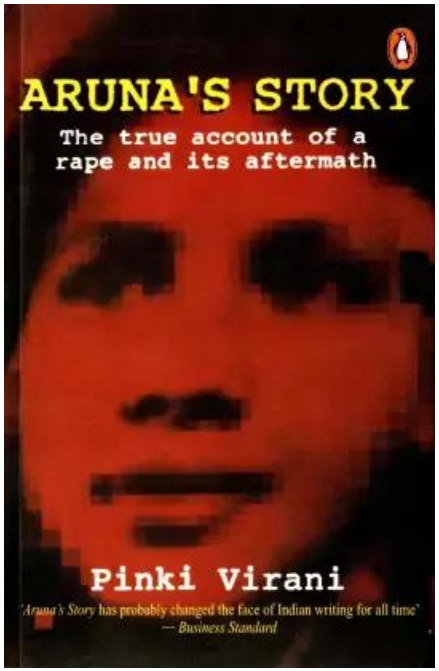
Can I order DNR?

What’s the difference ?

- Suicide (IPC 309)
- Assisted Suicide (IPC 306)
- Abetment of suicide (IPC 306)
- Euthanasia (Active)
- Euthanasia (Passive)

Common Cause Vs UOI 2018

- Right to Die with Dignity a fundamental right under Article 21?
- Advanced Medical Directive



The Advanced Medical Directive (Living Will) – Process for execution

The ED MLC Dilemma

- 55 yrs old, known to your hospital director was brought dead.Found dead in bed in afternoon.The Director has called to give a death certificate and help the family.
- 55 Yrs old regular patient under dialysis in your hospital is brought dead.
- 30 yrs old worker from near by industry is brought dead.
- 20 Yrs old patient with RTA brought dead
- 20 yrs old girl married recently has attempted suicide- Family does not want an MLC
- 14 Year old girl with abdominal pain brought by mother, tested positive for pregnancy. Mother pleeding not to raise MLC as it will spoil future of daughter.

Who needs a MLC

1)Indian Penal Code

Example : Homicide S 299,300,301,302,304 , Suicide (309) ,Rape (375),Dowry death(304B) , Causing Death by negligence (304A)

2)Workmans Compensation act

3) Accidental Deaths outside IPC – RTA (Motor Vehicles Act)

4)Dowry Prohibition act 1961

5) Insurance Law ; Other Deaths – Drowning, Electrocution, Lightening, Snake Bite

Death certificate – Yes

- Cause of death certain
- No suspicion of foul play
- Not reportable to police

Cases which are to be referred to police for PM

- Road / domestic / industrial accidents
- Not sure of cause of death
- Unexpected / unexplained / sudden / violent death
- History not corresponding to condition / not satisfactory
- Foul play / OT death / post procedure
- Need precise cause for insurance / pension

Renu Jain Vs Escorts Heart Institute

Consent for Autopsy

- State is responsible for administration of Criminal justice system
- State has power to claim body
- NO CONSENT needed to conduct PM from relatives or friends

Thank you