

FROM THE PRESS

Duty before payment

The National Consumer Disputes Redressal Commission recently ruled that hospitals are duty-bound to accept accident victims and critically-ill patients. Doctors may not insist on payment before attending to a patient. Finally, a relative's consent is not necessary if there is no family member present at the time. All these are both legally required and ethical duties under the Code of Medical Ethics.

The judgement was passed in a case filed by the family of 20-year-old Sumanta Mukherjee who died following a hit-and-run accident because a hospital refused to treat him.

Mr Mukherjee was hit by a bus but was conscious as bystanders carried him to the Ruby General Hospital, and even showed the doctors his insurance policy for Rs 65,000. The doctors started treatment but then demanded Rs 15,000. The people accompanying Mukherjee could pool together only Rs 2,000 but promised to raise the balance as soon as his parents arrived. But the doctors discontinued treatment. Mukherjee was shifted to another hospital but died on the way.

The hospital argued that it was not liable under the Consumer Protection Act since it had not received any money. Second, it could not treat because there was no relative to give consent. And, finally, death was inevitable in this case.

The Commission ordered the Ruby General Hospital to pay the boy's parents a compensation of Rs 10 lakh.

Jehangir B Gai. 'Hospitals can't turn away mishap patients' and 'First treat, then take fees, says judgement'. *The Times of India*, July 7, 2005.

Doctors needing protection

Some 700 resident doctors in the four state-run hospitals in Mumbai went on a three-day strike, protesting the lack of security in public hospitals. The strike was prompted by an attack on a resident doctor, Kiran Sulke, by a patient's relatives.

"This is the sixth such incident in JJ alone... there have been numerous such cases in other public hospitals," said Dr Yoganand Patil, joint secretary of the Maharashtra Association of Resident Doctors which called the strike.

The strike was called off after 50 home guards were posted at JJ hospital. They will remain there till more permanent arrangements are made.

Express News Service. Unattended for 2 days, HIV-positive patient at JJ dies. *Indian Express, Mumbai Newslines*. September 2, 2005. HT correspondent. Striking JJ doctors refuse to relent. *Hindustan Times*. September 1, 2005. HT correspondent. Docs' stir ends but only after he is no more. *Hindustan Times*. September 2, 2005.

Faking qualifications is negligence

Misrepresenting qualifications and experience amounts to negligence of the worst kind, stated a recent judgement of the Mumbai Suburban District Consumer Forum.

Ms Chandra Balagopalan was visiting Mumbai when she suffered an episode of angina, a condition for which she had been treated for some years in her home in Chennai. She was taken to the Aashirwad Nursing Home and put under the care of Dr Amit Trivedi who called himself a cardiologist. Dr Trivedi told Ms Balagopalan her condition was muscular, not cardiac, and changed the treatment. She became worse and recovered only after she was shifted to another hospital under the care of another doctor. Later inquiries revealed that Dr Trivedi was an MD in general medicine with no qualifications in cardiology.

The Balagopalans filed a case in the Consumer Forum, pointing out, among other things, that Dr Trivedi did not have the required qualifications and the Aashirwad ICCU was managed by inexperienced staff. Dr Trivedi argued that he had attended various seminars in cardiology. The Forum concluded that attending seminars did not amount to possessing educational qualifications and the doctor's claim of being a cardiologist amounted to "the worst type of medical negligence, which in fact is a clear-cut case of malpractice". As the doctor did not provide any evidence of the ICCU staff's qualifications and experience the forum accepted the Balagopalans' complaint on this point. The Forum directed the doctor to pay compensation of Rs 1.5 lakh to the Balagopalans.

Jehangir B Gai. Attending seminars doesn't make a doctor a specialist. *The Times of India*. September 2, 2005.

Valve scams

Dr R S Dhaliwal, a professor at the Post Graduate Institute of Medical Education and Research in Chandigarh, allegedly got patients to pay for "implanting imported artificial heart valves" though they were never operated upon. The doctor allegedly made at least 11 other patients pay for replacement of two heart valves each but X-rays show only one artificial valve each in their bodies. Dr Dhaliwal asked patients to pay Rs 40,000 for imported valves though he used local valves which cost around Rs 16,000. The profits were split between the doctor and the supplier - with every transaction recorded in a diary and all 'cuts' paid by cheque.

The investigation dates back to 2002. A case was registered in 2003 and the Central Bureau of Investigation has been awaiting sanction for prosecution since March 2005.

Sanjay Sharma. 1 heart valve at the price of 2. *The Times of India*, September 5, 2005.

Investigation or doctor-inflicted torture?

Aspiring Bollywood actress Preeti Jain is the latest to be subjected to 'brain mapping' and 'lie detector' tests at the Forensic Science Laboratory (FSL) in Bangalore. Jain was arrested for allegedly contracting with gangster-turned-politician Arun Gawli to get film-maker Madhur Bhandarkar killed. Jain had earlier filed a case against Bhandarkar for sexually exploiting her while promising her a role in his films.

FSL director BM Mohan told the media that they would decide upon whether to go for 'narco-analysis' later. Dr Mohan has been quoted as saying that sodium pentothal or 'narco analysis' "neutralises" a person's imagination. "In this state, it becomes difficult for him to lie and his answers are restricted to facts. The suspects are not in a position to speak up on their own but can only answer simple questions."

These tests have been described as unscientific, of no evidentiary value and torture – by none other than the president of the Forensic Society of India. Conducting such tests is nothing but replacing "physical third degree" mode of interrogation with a "psychological third degree" mode according to Mr P Chandra Sekharan, who also happens to be the pro-vice chancellor of the National Law University, Jodhpur.

Bureau reports. *Telegraph*, September 14, 2005. M Raghava. Narco-analysis, other tests are psychological third degree mode. *The Hindu*. March 5, 2004.

The curious case of the drug-eluting cardiac stent

The story first broke in June that the state-run JJ hospital in Mumbai had used unapproved drug eluting stents on at least 60 high-risk cardiac patients. Axxion drug-eluting stents were manufactured by Occam, a Netherlands based company, and marketed by Mumbai-based Shruti Medi Sciences. They were not approved for use in the Netherlands, but were being marketed in India.

A "high-level" probe was ordered and Dr Narendra Bansal, head of the department of cardiology, was sent on 'compulsory' leave. The Department of Medical Education and Research (DMER) banned the use of 'unapproved' stents, with immediate effect. According to the DMER, imported medical devices should be approved in the country of manufacture, or by the United States Food and Drug Administration. Axxion stents were not approved by either.

It turned out that the department had been using unapproved stents since February 2004. While the dean indicated that the stents were bought directly from the market by the patients, it was found that the payments were recorded in the hospital's accounts.

That was just the beginning. The investigating committee complained that government departments gave conflicting opinions on the stents' legal status. The Indian Food and Drug Administration described as illegal the use of imported stents that don't have approval from either their own country or the US FDA. But the Drugs Controller General of India said the drug eluting stents were not drugs and therefore not covered under the Drugs and Cosmetics Act. The FDA argued that the very description 'drug eluting stent' implies that it is a drug.

The committee also passed strictures against Dr Bansal for using his 'discretion' and bypassing government procedure while procuring the stents.

On September 19, the Bombay High Court asked the Central government to fix standards for drug-eluting stents. Till these standards are developed, only four companies may sell stents in

Maharashtra. These have either US or European certification.

At least half of the 60,000 patients undergoing angioplasty every year in India receive unapproved stents, according to Abhay Raj of the Delhi-based NGO Prahar.

In September, government ministries started discussions on standardising medical devices in the country. Devices used in treatment will be defined as drugs and regulated under the Drugs and Cosmetics Act. This will include pacemakers, valves, stents, catheters – both medicated and non-medicated – as well as implants for hip and knee replacements.

Prafulla Marpakwar. Illegal stents: cardiology head told to go on leave. *The Times of India*. June 7, 2005. Prafulla Marpakwar. Drug or device? Probe stumbles on stent dilemma. *The Times of India*. June 18, 2005. Express News Service. For now, only 4 firms can sell stents. *The Indian Express*. Mumbai Newline. September 22, 2005. Toufiq Rashid. Move to bring medical devices under drug law. *The Indian Express*. September 23, 2005.

IVF for saviour siblings legal in the UK

UK's highest court allowed a couple to use both pre-implantation genetic diagnosis and tissue typing during in-vitro fertilisation to create a 'saviour sibling' whose umbilical cord blood or bone marrow could be used to treat life threatening illness in a brother or sister.

Dyer C. Law lords give the go ahead for creation of "saviour siblings" *BMJ* May 7, 2005

Doctors and health care in Iraq

Delegates to the People's Health Movement assembly in Cuenca, Ecuador, from July 18 to 23 heard reports of crimes against health in Iraq.

The organisation Doctors for Iraq reported bombings and military raids on hospitals, killing patients who may be insurgents in their hospital beds and blocking ambulances transporting wounded combatants.

Doctors reportedly carry guns to prevent looting of the minimal supplies of drugs and other resources from hospitals. The main hospital in Baghdad is able to get only 15% of the water it needs for its patients.

Ronald Labonte. Iraq doctor tells of health crimes *BMJ* July 30, 2005

Medical errors in the UK

More than half a million errors are made in patient care in the United Kingdom's National Health Service hospitals each year, according to the National Patient Safety Agency. In 840 cases the patient died.

The estimates were drawn from 85,342 incident reports via the National Reporting and Learning System between November 2003 and March 31, 2005. Some issues of concern: Missing equipment on crash call trolleys, such as breathing apparatus, putting critically ill patients at risk; nearly 500 reports were received about patients' identities being muddled. In three cases, patients had unnecessary x rays (in one case a patient mistakenly had a blood transfusion), and safe medication practice with anticoagulant medication (there were 311 incidents involving anticoagulants with two deaths).

The report, *Building a Memory: Preventing Harm, Reducing Risks and Improving Patient Safety*, is available at www.npsa.nhs.uk/health/resources/pso.

Rebecca Coombes. NHS errors led to more than 800 deaths *BMJ* July 30, 2005

Owning up to errors

More than a dozen senior British medical figures have publicly owned up to past clinical errors as part of a campaign to encourage other doctors to report incidents and improve the safety of patients. Their stories were published in a handbook for junior doctors by the National Patient Safety Agency.

Contributors include the BMA chairman, the president of the Royal College of Physicians and the editors of the *BMJ* and the *Lancet*. Graeme Catto, president of the General Medical Council, wrote that as a general consultant physician he missed the fact that a patient had a blood infection. The man developed meningitis and died.

The handbook, *Medical Error*, tells doctors that they can now also send anonymous incidents to the National Patient Safety Agency. (<http://npsa.nhs.uk/staffreports>)

Stephen Green, head of risk management at the Medical Defence Union (MDU), said: "Our members often tell us of the terrible distress they feel when they make a mistake. They are often surprised to learn that a significant proportion of incidents reported to the MDU can be traced back to lack of procedure or systems failing, rather than to lack of individual clinicians' knowledge. It is vital that we learn from incidents and near misses."

Medical Error, which is supported by the BMA's Junior Doctors Committee, has been sent to all junior doctor members. It is also available at www.saferhealthcare.org.uk

Rebecca Coombes. Senior doctors admit mistakes in campaign for more open culture *BMJ* September 17 2005

Sri Lanka meningitis outbreak linked to syringes

Health authorities in Sri Lanka said that imported injection syringes might have triggered an outbreak of meningitis in patients who received spinal anaesthesia. Two maternity and two teaching hospitals reported 14 cases of meningitis associated with spinal anaesthesia or other procedures. Four patients died.

Investigations indicate that contaminated syringes and needles might have caused the outbreak, said a report released by the epidemiological unit of the Sri Lankan Ministry of Health. The source of contamination could have been unsatisfactory storage conditions, but this is still unknown and investigations are under way to determine whether this occurred during manufacture, transit, or storage. Some syringes had been procured through international tenders while others had come in as donations.

Health authorities have asked doctors to "avoid or minimise" spinal anaesthesia, lumbar puncture, myelograms and

intrathecal drug administration during the crisis period and are replacing 1.5 million syringes.

Ganapati Mudur. Imported syringes triggered meningitis in Sri Lanka *BMJ* September 10, 2005

US doctors forced to kill critically-ill patients

Doctors working in hurricane-ravaged New Orleans in the US reported killing critically-ill patients rather than leave them to die in agony as they evacuated. Their accounts were corroborated by a hospital orderly and by local government officials.

"I injected morphine into those patients who were dying and in agony," a doctor said. "If the first dose was not enough, I gave a double dose. And at night I prayed to God to have mercy on my soul."

Hospital patients were divided into three categories: those who were traumatised but medically fit enough to survive, those who needed urgent care, and the dying. "I had to make life-or-death decisions in a split second," said the doctor. "There were patients with 'do not resuscitate' signs. Under normal circumstances some could have lasted several days. But when the power went out, we had nothing. Some of the very sick became distressed. We tried to make them as comfortable as possible."

Their families believe their confessions are an indictment of the appalling failure of US authorities to help those in desperate need after Hurricane Katrina flooded the city, claiming thousands of lives and rendering 500,000 homeless.

Patients put down. *Daily Telegraph*, September 12, 2005 <http://dailytelegraph.news.com.au/story/0,20281,16566858-5001022,00.html>

Medical publisher sponsors military exhibition

The UK-based medical journal *Lancet* has criticised its owner and publisher, Reed Elsevier, for involvement in the global arms trade. Reed Elsevier owns the company Spearhead Exhibitions, which recently hosted one of the largest military exhibitions in the world, in London.

In an editorial the *Lancet* said that it "has a long record of drawing attention to the adverse health consequences of war and violence" and that the editors "reject completely any perceived connection between the journal and the arms trade, no matter how tangential it might be". The publisher's presence in the arms industry, the editors argue, "self-evidently damages its reputation as a health-science publisher... we respectfully ask Reed Elsevier to divest itself of all business interests that threaten human, and especially civilian, health and well-being."

The company secretary of Reed Elsevier defended his company's involvement, saying "the defence industry is necessary for upholding national security for the preservation of democratic values."

Owen Dyer. *Lancet* criticises its owner for hosting international arms fair *BMJ* September 17, 2005.