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Is the Doctor Required to Obtain Consent of the Patient in Case of Accident?

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The Indian Medical Council (Professional Conduct, Etiquette & Ethics) Regulations, 2002 casts a duty on all medical practitioners, i.e., all medical practitioners must attend to sick and injured immediately and it is the duty of the medical practitioners to make immediate and timely medical care available to every injured person whether he is injured in accident or otherwise. The relevant provisions of Indian Medical Council (Professional Conduct, Etiquette & Ethics) Regulations, 2002 is reproduced hereunder:

"2. DUTIES OF PHYSICIANS TO THEIR PATIENTS

2.1 Obligations to the Sick

2.1.1 Though a physician is not bound to treat each and every person asking his services, he should not only be ever ready to respond to the calls of the sick and the injured, but should be mindful of the high character of his mission and the responsibility he discharges in the course of his professional duties. In his treatment, he should never forget that the health and the lives of those entrusted to his care depend on his skill and attention. A physician should endeavor to add to the comfort of the sick by making his visits at the hour indicated to the patients. A physician advising a patient to seek service of another physician is acceptable, however, in case of emergency a physician must treat the patient. No physician shall arbitrarily refuse treatment to a patient. However for good reason, when a patient is suffering from an ailment which is not within the range of experience of the treating physician, the physician may refuse treatment and refer the patient to another physician.

2.1.2 Medical practitioner having any incapacity detrimental to the patient or which can affect his performance vis-à-vis the patient is not permitted to practice his profession.

2.4 The Patient Must Not be Neglected

A physician is free to choose whom he will serve. He should, however, respond to any request for his assistance in an emergency. Once having undertaken a case, the physician should not neglect the patient, nor should he withdraw from the case without giving adequate notice to the patient and his family. Provisionally or fully registered medical practitioner shall not wilfully commit an act of negligence that may deprive his patient or patients from necessary medical care.

3.5 Treatment After Consultation

No decision should restrain the attending physician from making such subsequent variations in the treatment if any unexpected change occurs, but at the next consultation, reasons for the variations should be discussed/explained. The same privilege, with its obligations, belongs to the consultant when sent for in an emergency during the absence of attending physician. The attending physician may prescribe medicine at any time for the patient, whereas the consultant may prescribe only in case of emergency or as an expert when called for."

The Hon'ble Supreme Court of India, in the matter titled as **"Parmanand Katara versus Union of India, AIR 1989 SC 2039"** has held that:

"There can be no second opinion that preservation of human life is of paramount importance. That is so on account of the fact that once life is lost, the status quo ante cannot be restored as resurrection is beyond the capacity of man. The patient whether he be an innocent person or be a criminal liable to punishment under the laws of the society, it is the obligation of those who are in-charge of the health of the community to preserve life so that the innocent may be protected and the guilty may be punished. Social laws do not contemplate death by negligence to tantamount to legal punishment.

Article 21 of the Constitution casts the obligation on the State to preserve life. The provision as explained by this Court in scores of decisions has emphasized and reiterated with gradually increasing emphasis that position. A doctor at the Government hospital positioned to meet this State obligation is, therefore, duty-bound to extend medical assistance for preserving life. Every doctor whether at a Government hospital or otherwise has the professional obligation to extend

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his services with due expertise for protecting life. No law or State action can intervene to avoid/delay the discharge of the paramount obligation cast upon members of the medical profession. The obligation being total, absolute and paramount, laws of procedure whether in statutes or otherwise which would interfere with the discharge of this obligation cannot be sustained and must, therefore, give way. On this basis, we have not issued notices to the States and Union Territories for affording them an opportunity of being heard before we accepted the statement made in the affidavit of the Union of India that there is no impediment in the law. The matter is extremely urgent and in our view, brooks no delay to remind every doctor of his total obligation and assure him of the position that he does not contravene the law of the land by proceeding to treat the injured victim on his appearance before him either by himself or being carried by others. We must make it clear that zonal regulations and classifications cannot also operate as fetters in the process of discharge of the obligation and irrespective of the fact whether under instructions or rules, the victim has to be sent elsewhere or how the police shall be contacted, the guideline indicated in the 1985 decision of the Committee, as extracted above, is to become operative. We order accordingly."

The Hon'ble National Consumer Dispute Redressal Commission in the matter titled as **"Pravat Kumar Mukherjee versus Ruby General Hospital & Ors., 2005 (2) CPJ 35"** has held that:

"Considering the aforesaid law, it is apparent that: emergency treatment was required to be given to the deceased who was brought in a seriously injured condition; there was no question of waiting for the consent of the patient or a passerby who brought the patient to the hospital, and was not necessary to wait for consent to be given for treatment.

There is nothing on record to suggest that the Doctor has informed the patient or the relatives or the person who has brought him to the hospital with regard to dangers ahead or the risk involved by going without the operation/treatment at the earliest. Consent is implicit in such cases when patient is brought to the hospital for treatment, and a surgeon who fails to perform an emergency operation must prove that the patient refused to undergo the operation not only at the initial stage but even after the patient was informed about the dangerous consequences of not undergoing the operation."

Thus, the patient's consent is not necessary in case of accident/emergency as in such cases, the consent is implied when the patient is brought to the hospital. Further, it is an obligation on the doctor to treat his patient without any delay.

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Young, Healthy Adults with Mild COVID-19 can Take Weeks to Recover, Says CDC

It can take weeks for even young, previously healthy adults to recover completely from even a mild COVID-19 infection, reports the Centers for Disease Control and Prevention (CDC).

As per CDC, nearly one-fifth of the patients aged below 35 years reported that they had not returned to their usual state of health up to 21 days after testing positive. As reported in the *Morbidity and Mortality Weekly Report*, a telephone survey was conducted across 13 states of symptomatic adults with mild COVID-19 infection. The survey revealed that 35% of the subjects had not returned to their usual state of health 2-3 weeks following testing. The report thus stated that recovery could be prolonged even in young adults who do not have any chronic medical conditions… (*Reuters*)

First Cell-based Gene Therapy for Adult Patients with Relapsed or Refractory MCL Receives FDA Approval

Brexucabtagene autoleucel, a cell-based gene therapy for the treatment of adults with mantle cell lymphoma (MCL) who do not respond to or relapse after other treatments, has been approved by the US Food and Drug Administration (FDA).

This chimeric antigen receptor (CAR) T-cell therapy is the first cell-based gene therapy that has received the FDA approval for the treatment of MCL. The safety and efficacy of the treatment were confirmed in a multicenter trial including 60 adults with refractory or relapsed MCL followed for about 6 months after their first objective disease response. There was a complete remission rate of 62%, and an objective response rate of 87%... (*FDA*)