Minute 24-25 November/24.110/ Regn3

NO. MCI-211(2)/2002-Regn./

MEDICAL COUNCIL OF INDIA

Minutes of the meeting of the Ethics Committee held on 24th & 25th November, 2003 at 11.00 A.M. in the Council Office, Aiwan-E-Galib Marg, Kotla Road, New Delhi –110 002.

Present:

1. Dr. Indrajit Ray - Chairman
2. Dr. Dias Sapeco Silvano CA
3. Dr. K.M. Ramesh Chandra Babu
4. Dr. D.J.Borah
5. Dr. B.A. Rudrawadi
6. Dr. S.K. Sharma
7. Dr.(Mrs.) Joba Helen Soren

Dr. A.S. Nayyer - Deputy Secretary.

Regret received from Dr. Samarendra Pratap Singh conveying his inability to attend the meeting.

1. Draft Bill - Hospital treatment of terminally ill patients and end of life care support.

BACKGROUND NOTE

Sh. H. D. Shourie, Director, Common Cause has written to the Medical Council of India regarding problems of hospital treatment of ill patients and has also suggested certain measures to be adopted by the Council as a National Guideline. The Ethics Committee has gone into the depth of the problem and has proposed the following: -

> "The Ethics Committee considered the matter and after detailed deliberations, unanimously, decided that there is need for a nation wide discussion on this very sensitive issue which has relevance in today's perspective wherein experts/specialists of different disciplines related to critical care and terminal illness may be involved to ventilate the views of their respective national Bodies/Association in this regard.
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> The Committee also decided that the Members of the Ethics Committee along with some Members nominated by the President, may also be invited. This Seminar should include 70-80 people and may be convened at New Delhi

at a suitable date and time preferably in the month of June/July 2003. In the meantime, if the General Body of the Council agrees to this proposal, the background papers in this regard shall be prepared by the Ethical Committee."

The Executive Committee has entrusted the Ethics Committee to prepare a Background paper in this regard and the Ethics Committee has entrusted one of its Members, Dr. D. J. Bora to prepare the preliminarily draft.

INTRODUCTION

It is well known fact that with rapid all round development, the life span of the people in our Country has increased considerably since independence. This has resulted in a large number of senior citizens in our Society. At the same time, advancement in medical treatment procedures and facilities have resulted in a situation where more and more patients get the facility of treatment in different types of modern Intensive Care Units (ICUs) and Coronary Care Units (CCUs). The treatment of the terminally ill patients underwent great advancement resulting in greater care of the unconscious and as well as comatosed patients also. This has resulted in a situation where newer problems have arisen. In ICUs and ICCUs, all possible means are applied for preservation of life. In any such situations, continuation of life may not be possible without the help of Life Support Systems. This has resulted in a situation where patients in Persistent Vegetative State (PVS) and also with clinically proven brainstem death are also being kept in Life Support Systems because there is no unanimity regarding withdrawal of Life Support System in all such cases. Though, in many hospitals, certain procedures are being followed regarding withdrawal of such Life Support Systems because no National Level Guidelines are available.

It has become imperative that Policy Guidelines be framed taking into consideration the different aspects of problems of hospital treatment of the Terminally ILL patients and also the need to implement Life Support Systems to sustain Life Care so that common guidelines can be framed.

PROBLEMS

If we look at the problem treatment of the Terminally ill patients in hospital sitting, we will face certain typical situations, which can be listed as under :-

a) Terminally ill patients, who are fully conscious and in possession of full faculties but are suffering from such incurable diseases like widespread Terminal Cancer and for whom continuation of life has become unbearable and meaningless.

b) Terminally ill patients, who are suffering from excruciating pain, which is not medically relieved and in whom there is neither any hope of recovery nor in whom the continuation of life has got any meaning.

c) Terminally ill patients who have gone into Coma, or unconsciousness due to any disease process, who have (i) no reasonable expectation of cure or recovery (ii) has gone into a Persistent Vegetative State (PVS) (iii) who has suffered irreversible brainstem death (as signified by a flat EEG for two minutes or more).

The Hon'ble Supreme Court has opined in the Court Case No. 648 (Divisional Bench) that the Right of life enshrined in the Constitution of India does not automatically mean the "Right to die" and as such, the Indian Constitution and the Laws not permit euthanasia as they are today.

Though the Protagonists of Euthanasia are of the view that existence in Persistent Vegetative State is of no benefit to the patient of a terminal illness, to his family and to the Society at large and as such, such persons may be given the "Right to Die with dignity". preferably in an ICU.

In some such cases, we very often face the situation where because of the disease process itself, or the magnitude of the disease, there is no reasonable expectation of a cure or recovery and the patient is unlikely to come back from his Coma. Such patients may linger for a very very long time, if they are to be on modern Life Care Support Systems, but their prognosis is totally hopeless. Such patients go into a Persistent Vegetative State (PVS). Though there may not be organic brain death for a considerable time in such patients, the medical The supporters of Euthanasia also hold that patients of terminal illness who are suffering from excruciating pain and have no reasonable hope of cure, should also be allowed to die in dignity.

They also enjoined upon the medical fraternity to help such categories of patients to end their life for peace and dignity. However, in India, the Hon'ble Supreme Court has opined that the Constitution and the Laws do not provide for either the "Right to Die" or helping any extinguishing the life by the Doctors. Such a situation can only change if new legislations are brought by the Parliament and Constitutional Amendment is effected,

making “Right to Die” a Fundamental Right along with the “Right to Life”.

Further more, the Indian Medical Council (Professional conduct, Etiquette & Ethics) Regulations, 2002 in Section 6.7 entitled Ethics has clearly laid down that “Practicing euthanasia shall constitute Unethical Conduct.

Therefore, it will not be possible for us to discuss the question of Euthanasia or the problems enunciated in (i) & (ii). We will have to restrict our discussions only in the (iii) point.

Problem of treatment of Terminally ill patients who have gone into Coma or Unconsciousness

It is possible to discuss the treatment of patients who have gone into Coma or Unconsciousness due to any disease process and are admitted to hospital experience proves that such a death is only a matter of time and is brought by the various complications the patient ultimately develops in such an intensive and supportive treatment.

In such cases Section 6.7 of the Indian Medical Council (Professional Conduct Etiquette and Unethical conduct, it says that “However on specific occasions, the question of withdrawing supporting devices to sustain cardiopulmonary function even after brain death, shall be decided only by a team of Doctors and not merely by the treating physician alone. A team of Doctor shall declare withdrawal of Support System. Such team shall consist of the Doctors in charge of the patient, Chief Medical Officer / Medical Officer in charge of the Hospital and a Doctor nominated by the incharge of the hospital from the hospital staff or in accordance with the provisions of the Transplantation of Human Organs Act, 1994.

In the above situation, already the procedure is being followed in the different States and different hospitals for discontinuation of Life Support Systems with Terminally ill patients who are brain dead. In this paper, we would like to just lay down the following procedures based on the practices actually being followed in hospitals :

1) Withdrawal of Life Care Support System can only be considered in a patient who have gone into Coma or Unconsciousness and has suffered irreversible brain death.

In such patients, in such cases, the provisions laid down in the Section 6.7 of the Indian Medical Council (Professional Conduct, ETIQUETTE AND ETHICS) Regulations need to be followed in letter and shift in withdrawing of Life Care Support System.

2) In case of patients in **Persistent Vegetative State (PVS)** where there is no hope of medical recovery, the following procedure may be adopted :-

1) The treating Doctor may prepare a detailed note highlighting the reasons as to why continuation of Support System is unlikely to benefit the patient and request the authorities of the hospital to constitute a Committee.

2) On receipt of such written request, the Head/Medical Superintendent of the hospital shall constitute a Committee comprising of three senior specialists of the hospital or even from outside the hospital, who will independently go into the detailed history diagnosis and Prognosis of the patient and form their own opinion.

3) If the opinion of the Committee is in concurrence with that of treating Doctor, then the facts shall be made known to the attendance of the patient, if any, in writing. If the attendance of the patient also occur to the withdrawal of Life Care Support System of the patient, then the same may be withdrawn from the patient. But if the attendance won continuation of the system, then medical and financial implication should be explained to them and their opinion be obtained in writing.

4) All medical records of the patient should be meticulously maintained and kept along with the letter of treating Doctors, opinion of the Committee, consent of the attendant in the hospital for a period of 2 years.

<u>Prior Consent of the patient to end Life Care Support in case of Terminal illness leading to unconsciousness from where no reasonable medical recovery is possible.</u>

One must take into consideration the question of a prior written request by a patient which may be in the form of a “Living Will” signed by the patient in presence of two witnesses /attorneys requesting a discontinuation of Life Support System should the patient at any time subsequent to the Execution of this Will shall go into Coma/unconsciousness without any reasonable hope of medical recovery.

Cognizance may be taken of such a wish expressed in form of an "attested Living Will" by the patient and if such a document is made available to the treating Doctor, he /she may bring it to the notice of the Head /Superintendent of the hospital where the patient is undergoing treatment, if such a situation arises. In such case, the Head, Medical Superintendent shall constitute the Committee and if the Committee concurs that medically continuation of the Life Support System is of no use, the authorities may decide to withdraw the Life Support System without reference to the attendant, but such a decision along with the Will shall be communicated to the attendant, if any.

(A sample of the Living Will) is put in Appendix I of this paper.

CONCLUSION

Treatment of Terminally ill patients who have gone into Coma and have either no reasonable medical hope or recovery or have gone brainstem death on admission or during their treatment should not be unnecessarily kept on Modern and highly expensive Life Care Support System. This will not only create an unreasonable financial burden on the family but at the same time, will also heavily tax the scarce advance facilities in our country. Moreover, such clear guidelines are necessary so that some unscrupulous private hospitals cannot keep a patient unnecessarily on Life Care Support System for financial gains alone. This Baseline paper tries the address, the Fundamental problems regarding treatment of Terminally ill patients and need of Life Care Support System and withdrawal of it. (Appendix I is being enclosed)

Annexure - 1

My Living Will & Attorney Authorisation

This Declaration on My Life is made by me (full name of the patient) …… …… resident of (full address)…… …….. on (date)……at place …….

I am of sound mind and am making this 'declaration' willfully and voluntarily and after careful consideration.

If the time comes that I can no longer take part in decision regarding myself, this 'declaration' will comprise expression of my wishes and I request that all concerned should take these wished into account for taking any decision regarding my life.

If at any time, I reach the stage of terminal illness, and go into a coma with no reasonable expectation of regaining consciousness, or reach a persistent vegetative stage with no reasonable expectation of regaining significant cognitive functioning I should be deemed to decline to receive life-sustaining infusions, naso-gastric hydration and nutrition. In taking these decisions a panel of three doctors of relevant expertise, constituted by the administrative head of the hospital where I am admitted for treatment, may be consulted for their view whether there is any hope of my recovery for continuation of life.

I request that this 'declaration' should be honoured by my family members and physicians as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences of such refusal.

In addition, and as a supplementary alternative, I hereby appoint …… …… Resident of and …….. resident of ……. Who have expressed their acceptance as such, jointly or severally, to be my attorneys for the purpose of securing compliance with the terms of this 'declaration' and also hereby vest in my attorneys, jointly or severally, the power to make decisions and take action on my behalf with regard to wishes expressed in this 'declaration', notwithstanding any contrary views held by any other person.

In the absence of both of these authorized attorneys of the time of taking the required decisions on my medical treatment, any member of my family will have the authority to express the wishes on my behalf regarding the above treatment.

I declare that this 'Declaration' and 'Attorney Authorization' shall remain in force during my life time unless I revoke it at any time and until notice of its revocation has been received by my attorneys.

I understand full importance of this 'Declaration' and 'Attorney Authorization' and am fully competent to make it.

DATE SIGNATURE

PLACE (Signature of Declarant)

This 'Declaration' and 'Attorney Authorization' has been signed in the presence of undersigned by …….. (Name of Declarant) who is known to me and I believe that the signatory is of sound mind.

Witness I.

Name…….. Signature …….

Address ……

Witness II.

Name…….. Signature …….

Address ……

The above 'Declaration' and 'Attorney Authorization' has been signed in the presence of undersigned (Name of Declarant) who is known to the undersigned and who I believe to be of sound mind.

Signature of Authorized Attorney No. I

Signature …….

Address ……

Signature of Authorized Attorney No. II

Signature …….

Address ……

1. This document will not need to be executed on stamp paper.

2. Persons signing as Witnesses can also be the Authorized Attorneys.

Appendix I (2 pages)

This Draft Bill may be placed before the Executive Committee and General Body of this Council for a National Level Guideline in this regard.