‘Medicine and the Law’ is a forum where readers can ask questions pertaining to legal issues they may face during the course of their medical practice. The answers and clarifications are have been kindly provided by D. Samuel Abraham, (M.A., B.L., M. Phil., PGDPM), Legal Advisor to Christian Medical College, Vellore.

Q1. As general practitioners, we always face some embarrassing situations. One such situation is being asked to certify death of a patient who has never been treated by him/her. Such patients are always going to super specialty hospitals for various diseases. When they are discharged and reached a stage of no return, they approach us to certify death. What should be done on such cases? How can a doctor who does not know the background (either family or medical) give a certificate of death due to natural causes? Please guide.

Answer: I appreciate this question which has been in the minds of several doctors in the present day’s situation. Let me clarify the matter:

I have thoroughly gone through the various provisions of Registration of Birth and Death Act, 1969 and the rules framed by States. I have also gone through the Indian Medical Council Act and the rules framed by it. Nowhere I can find that Registered Medical Practitioners/Hospitals/Nursing Homes can issue Death and Birth “Certificate”. The law used the word “Information or report of births and deaths”, so that these reports can be taken to the file of the Registrar for registration purposes.

Only the general public has named this information or report of births and deaths given by the Doctors as Death or Birth Certificate. Let me put the point straight. ONLY the authorized official by law who is “the Registrar” can issue Death or Birth Certificate and NOT by any persons including Medical Practitioners. As the Medical Practitioners are present while there is a birth or death, they are expected to give information or report of death together with additional form which is called “MEDICAL CERTIFICATE OF CAUSE OF DEATH”. This is mandated only for Hospitals/Nursing Homes NOT for public who report this to the Registrar office.

On the basis of above facts the following observations are derived,

1. A Medical Practitioner can issue intimation of death together with Medical Certificate of Cause of Death to the Registration Official. Normally in a city like Bengaluru, this person would be the Commissioner of Corporation of Bengaluru who alone is the authority to issue Death or Birth Certificate.

2. I would advise that Doctor who has not given treatment to a particular patient not even once, should avoid in giving intimation because, he cannot identify the person.

For example, when the doctor is not able to identify the person with the particular name he cannot correlate with the dead body and the name attached to that body. Only, if the doctor knows a person and his name, then only can he issue an intimation or report of death. However, when a patient approached your hospital even at the terminal stage and if he dies in your hospital, with available records and identification with the relative you can send intimation to the Statutory Authority which is part of your duty as the cause of action arises in your hospital.

Your contention that it may not be possible for a doctor who does not know the background to give a certificate of death due to natural causes is correct and acceptable.
Q-2. For those patients brought with trauma related wounds without confirmatory history of cause of trauma, is it medico legally desirable to take photographs for record and have those available for medico legal scrutiny (before the wounds are dealt with by suturing, stapling or other means)?

This is to avoid the situation where there is a contention or alternate claim regarding the nature of wound at the time of admission by either party.

On occasions when the patient is cleaned up and wounds are sutured, there is hardly any real-time evidence of the injury at the time of admission?

**Answer: Yes.** You have every right to take photograph for record about the wounds and nature of wounds and total number of wounds received by a victim of a road accident before giving treatment. But you should be cautious that the photographs should be kept under the proper custody. Because, if it is published or printed for any reason, the patient would be entitled to sue you for publishing the same without his permission.

At the same time, it is agreeable that your observations are correct and the photos with wounds would speak volume before the trial court about the condition of the patient rather than pages of written report about the wounds.

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**MEDICAL NEWS**

**WHO REPORT – Alarming medical scenario in India**

A study titled ‘The Health Workforce in India’, published in June 2016, revealed an alarming situation while looking at the quality and distribution of medical practitioners in India.

*The results showed that more than half of the doctors (57%) don’t have any medical qualification, and in rural areas, just 18.8 per cent of allopathic doctors are qualified.*

Almost one-third (31 per cent) of those who claimed to be allopathic doctors in 2001 were educated only up to the secondary school level and 57 per cent did not have any medical qualification.

The situation was far worse in rural India, where just 18.8 per cent of allopathic doctors had a medical qualification.

Interestingly, female healthcare workers – 38 per cent of the total – were found to be more educated and medically qualified than their male counterparts. For instance, among allopathic doctors, 67 per cent of females had a medical qualification compared to 38 per cent of males.

The data for each district in the country from the 2001 census were specially extracted for this study, which provided a comprehensive picture of health workers in each district.

The study revealed that the density of doctors in India was 80 doctors per lakh population compared to 130 in China. Ignoring those who don’t have a medical qualification, the the density of all doctors — allopathic, ayurvedic, homoeopathic and unani — at the national level fell to 36 doctors per lakh population. As for nurses and midwives, India had 61 workers per lakh population compared to 96 in China. The number reduced tenfold to 6 per lakh population, if only those with a medical qualification were considered.

**Sources:**
The Hindu, July 18, 2016
The health workforce in India