

Medico Legal Issue during Treatment COVID-19

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Abstract: *Corona viruses cause mild respiratory illnesses, such as the common cold, Severe Acute Respiratory Syndrome (SARS). To provide basic knowledge of the disease the risk factors, treatment guideline and right of patient. Primarily spreads person-to-person via respiratory droplets from coughs or sneezes (like the flu). It takes approximately 2 to 14 days (median ~5 days) for an infected person to show symptoms-Common Cold like-Fever, Cough, Shortness of breath. Patients right during COVID treatment are discussed.*

Keywords: COVID-19, Medicolegal issue in COVID-19, Right of patient in COVID treatment.

1. Introduction

COVID-19 is the name of the “novel corona virus” disease SARS-CoV-2 is the name of the virus that causes COVID-19. Corona viruses cause mild respiratory illnesses, such as the common cold, Severe Acute Respiratory Syndrome (SARS), Middle East Respiratory Syndrome (MERS), COVID-19 is a new corona virus disease, Emerged from Hubei Province, China in December 2019. Home isolation of ill people, hand hygiene.

Aim and Objective of the study

- To provide basic knowledge of the disease and the risk factors.
- To present practical guidelines and infection control measures that affect disease process.
- To promote the effective implementation of infection control measures in order to perform their duties safely.
- To empower the wellbeing of them who have a key role in preserving their departments and their National Healthcare Systems

2. Material and Method

- Present study is carried out at forensic medicine department, SMC Unnao.
- Data and other material collected from various book and internet site.

3. Discussion

- Social mobilizers, community workers and volunteers have an important role in providing timely and actionable health information so that people know how to protect themselves and reduce the risks associated with the coronavirus disease 2019 (COVID-19).
- These tips for community engagement – from UNICEF (United Nations International Children's Emergency Fund), the World Health Organization (WHO) and the International Federation of Red Cross and Red Crescent Societies (IFRC).

How Infect Corona Virus (How does the virus spread)

- Primarily spreads person-to-person via respiratory droplets from coughs or sneezes (like the flu).
- Possibly spread by touching an object or surface with the virus on it, then touching mouth, nose, or eyes.
- Possibly spread through stool with the virus in it
- People likely most infectious while they are most symptomatic (e. g., coughing and sneezing).
- Spread from people without symptoms appear possible.

What are the symptoms / clinical feature

- It takes approximately 2 to 14 days (median ~5 days) for an infected person to show symptoms-Common Cold like-Fever, Cough, Shortness of breath.

Risk Factors and Severity

- People with COVID-19 can have no symptoms or develop mild, severe, or fatal illness
- Kids may have less severe disease (2% of confirmed cases in China occurred among those <20 years old)
- Current case fatality rate ~2% among those with laboratory-confirmed COVID-19
- Risk factors for severe illness may include:
 - Older age
 - Underlying chronic medical conditions

Treatment-Safe to Itself Corona

- Prevention
 - Mask
 - Social (Physical) distance
 - Hand clean
 - Hand wash –soap
 - Sanitizer
 - Vaccination
- Investigation RT PCR
- Treatment
 - No specific treatment currently available
 - Supportive management of complications, including advanced organ support if indicated
 - Anti-viral medications under investigation
- Community Mitigation Planning

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Strategies

- Home isolation of ill people, hand hygiene, resp.
- Home quarantine of well, potentially exposed people
- Social distancing in workplaces
- School closures
- Cancelling mass gatherings
- Routine cleaning of frequently touched surfaces.

When should faculty, staff, students, or volunteers seek medical evaluation criteria

- Ill with a fever, cough, or difficulty breathing and have travelled from COVID endemic / recent close contact of a confirmed COVID-19 case in the last 14 days
- Counter Stigma / What we can do as individuals
- Rely on and share trusted sources of information.
- Show compassion and support for individuals and communities more closely impacted.
- Avoid stigmatizing people who are in quarantine. They are making the right choice for their communities.
- Do not make assumptions about someone’s health status based on their ethnicity, race or national origin.
- Stay updated and informed on COVID-19 to avoid miscommunication or inaccurate information
- View people directly impacted by stigma as people first
- Be conscious of your language
- Support community with where to access credible information
- Stick to the facts

Vulnerable medico legal situations in COVID times

- Constrained (use pressure to force) clinical circumstances
- Patient confidentiality
- Informed consent
- Resource crunches
- Working outside fields of specialization
- Enhanced positions and temporary registrations
- Remote consultations and telemedicine
- Research in pandemic times
- Enhanced cost of care
- Some Vulnerable Situations

Patients Right During COVID Treatment

- 1) RIGHT TO INFORMATION regarding COVID Treatment
 - Dr. (Physicians /surgon or their qualified assistants) are required to provide adequate information on identity and professional status of every doctor and assistant, patient illness, its diagnosis (provisional or confirmed, as it may be), proposed investigation, Tt and possible complications to the patient.
 - If the patient is not in a state to understand this, the dr is required to provide the information to the caretaker.
 - This has to be done in a simple language that the patient or caretaker will understand.
- 2) RIGHT TO RECORDS AND REPORTS regarding COVID Treatment
 - Patients or their respective caretakers have the right to access the originals or copies of case papers, indoor

patient records, investigation reports, discharge summary or a death summary, in the case of a death.

- Investigation reports have to be made available to them within 24 hours of admission or 72 hours of discharge.
- 3) Constrained Clinical Circumstances

Every patient or health-care worker (HCW) could be a source of infection, and therefore, clinical care is greatly COMPROMISED.

Examples

A surgeon using personal protective equipment (PPE) for an emergency brain tumor surgery under the operating microscope in a COVID patient may be restricted in his/ her surgical skills and the flow of the operation due to the bulky equipment and added protocols. Potentially, this carries an enhanced risk of adverse events.

- b. Physical examination of outpatients may be compromised and thus bedside clinical diagnosis, greatly impaired [10]
- c. The doctor is often put in a situation where he/she has to decide whether a patient needs to go for COVID testing and further treatment.

4) Right to Confidentiality, Human Dignity and Privacy
The code of ethics dictates doctors to hold information about the illness and treatment plan for the patient in strict confidentiality from everyone except the patient and their caretakers (professional secrecy).

Unless it is an exceptional case where sharing this information is “in the interest of protecting other or due to public health considerations.”

The hospital is responsible for upholding the dignity of every patient, irrespective of their gender (human dignity).

In the case of a female patient, she has the right to demand the presence of another woman if the medical practitioner checking or treating her is male (professional privacy).

5) Right to Informed Consent

Complete autonomy with the patient having sound decision making capacity and full information about the procedure. [7]

Risk of cross-infection with SARS-CoV2 during treatment / surgery of the patient and caregivers
Elevated cost of care

- 6) Right to Non-Discrimination
- 7) Right To Transparency in Rates, and Care according to Prescribed Rates Wherever Relevant

Patients have the right to get medicines, devices and implants at rates decided by the National Pharmaceutical Pricing Authority (NPPA) and other relevant authorities.

Patients have the right to receive health care services that cost within the range prescribed by the Central and State governments, at the time of receiving it.

As evidence for this, hospitals are required to have printed brochures and prominent display boards bearing the names and rates of medical procedures that are available with them.

8) Right to Choose the Source for Obtaining Medicines or Tests

As a patient or a caretaker, have the right to choose which registered pharmacy wish to buy medicine, an investigation procedure (like a blood test, for example) from any diagnostic centre or laboratory registered under the National Accreditation Board for Laboratories (NABL).

9) Resource Crunches (Shorten) and Rights/Obligations of Health-Care Workers (Frontline And Non-Frontline)

Training, tools, and resources necessary to minimize the HCWs risks

Frontline health workers cannot be expected to expose themselves to risks that are out of proportion to the public health benefits, and their efforts are likely to achieve.

Example

Minimize the risk of infection of personnel and patients
Priority access to health care for infected HCWs
Appropriate remuneration, incentives, and “hardship allowance”
Support for reintegrating into the community after the pandemic times
Assistance to family members of HCWs
Equity and transparency in task and resource allocations

10) Right to proper referral and transfer, which is free from perverse commercial influences

If a patient must be transferred from one healthcare centre to another, a proper and detailed justification must be given to them/caretakers along with various options of the new healthcare centre.

They must also be given a list of treatments/medicines that need to be continued after the transfer. This step cannot be taken unless the patient or their caretaker accepts it.

Needless to say, these decisions cannot be influenced by reasons like “kickbacks, commissions, incentives, or other perverse business practices.”

11) Right to be Discharged, Right to Receive The Body of a Deceased Person From The Hospital

“A patient has the right to be discharged and cannot be detained in a hospital, on procedural grounds such as [a] dispute in payment of hospital charges.

Similarly, caretakers have the right to the dead body of a patient who had been treated in a hospital, and the dead body cannot be detailed on procedural grounds, including non-payment/dispute regarding payment of hospital charges against wishes of the caretakers,” says the MoHFW.

12) Right to be Heard and Seek Redressal

Patients and caregivers have the right to seek redressal in case they are aggrieved, on account of infringement of any of the above-mentioned rights in this charter.

This may be done by lodging a complaint with an official designated for this purpose by the hospital/healthcare provider and further with an official mechanism constituted by the government such as Patients’ rights Tribunal Forum or Clinical establishments regulatory authority as the case may be.

13) Working Outside Fields of Specialization

Surgeon work as physician

As pandemic health-care requires supportive and general measures, specialists may be called upon for frontline care outside their areas of expertise.

Retired doctors may also be called into meet the requirements. A restricted number of working hands and quarantined fellow workers further stretch this need.

Example

When orthopedic surgeons may be expected to man intensive care unit ventilators, their liabilities for less than optimum performance need to be reduced.

14) Enhanced Positions and Temporary Registrations

To meet urgent workforce needs in a pandemic, medical students and resident doctors may need to be urgently recruited for clinical services before completing their qualifying examinations.

They would be expected to provide professional services, but their liabilities could be limited in these exigent situations. [4]

Telemedicine

Telemedicine refers to the practice of caring for patients remotely when the provider and patient are not physically present with each other.

Modern technology has enabled doctors to consult patients by using HIPAA compliant video-conferencing tools.

Most robust and easy to use telemedicine software.

Research in Pandemic Times

The urgency to find treatment intervention benefits in a pandemic could often trample upon basic rights of research subjects. [1, 2]

Enhanced Cost of Medical Care

The judicious use of PPE, tests, and additional precautions to protect the patient/HCW from cross-infections add

significantly to the cost of care. The costs would be borne by state-sponsored health-care systems, insurance companies, or by individuals as per the norms in different nations. [4]

Example

Hospital bills for both COVID care and non-COVID ailments are enhanced by 30%–400% of the pre-pandemic times, thus making medical care outrageously expensive.

MEDICAL NEGLIGENCE AND CULPABILITIES IN PANDEMIC TIMES (PROFESSIONAL NEGLIGENCE)

The Epidemic act with its legal measures to control the pandemic may often cross paths with medical malpractice laws and concepts of medical negligence in these pandemic times. [4, 5]

The EPIDEMIC DISEASES ACT OF 1897 was put in place due to the mass spread of the bubonic plague outbreak in Bombay.

The Epidemic act is centered around enforcement of public health measures for epidemic control.

On the other hand, medical negligence laws are centered on standards of care, rights of the patient, and the doctors' duties.

Failure to attain the standard of care prescribed by the law, thus committing a breach of duty

Damage suffered by the complainant caused by this breach of duty and recognized by law.

Medical Practitioner Liabilities

Thus, a medical practitioner could have the following liabilities in his/her usual duties of providing medical care-
Tortious liability (civil)

Contractual liability

Criminal liability – For gross criminal negligence.

However, in pandemic times, several exigencies exist and these laws have to be viewed in the right context and penalties modified accordingly.

Penalties in Pandemic Times

- Regulatory orders in pandemic times (COVID 19) need laws to enforce them. [4-6]
- The Indian Section 188, Indian Penal Code (IPC), imposes punishment for disobeying an order promulgated by a public servant, and this is often used to enforce the Epidemic Act violations.
- Section 269 of the IPC prescribes punishment for negligent actions which may spread infection of any disease, and Section 270 is a more serious offence than the one listed under Section 269.
- During usual non-pandemic times, acts of alleged medical negligence, doctors could incite liability under

IPC Section 304 A (rash or negligent act causing death not amounting to culpable homicide), IPC 336, 337, 338 respectively (rash or negligent act endangering life, safety of others, causing grievous hurt).

- Besides this, violation of a contract under the consumer protection act or civil right violations (falling short of reasonable standards in clinical care) could attract medical negligence charges.
- However, these laws need to be interpreted through the prism of the alarmist and constrained medical care during the pandemic.

Health Protection Act

- The Act, covering doctors affiliated to institutions as well as independent practitioners, outlaws attacks against physicians and damage to their property.
- Offenders can get a jail term of up to three years and a fine of Rs 50,000.

Doctor's defense against claims and charges

- A medical practitioner works under immense pressures and compromises during a pandemic, often stretching beyond the call of duty.
- Whether this could be reason enough to lower the medico legal bar of standards is a matter of debate. [2]
- EXIGENT (demanding attention) CIRCUMSTANCES
- Resource crunches, crisis urgencies, and health risks to self and extreme hardships may mitigate the liabilities of a doctor charged with medical negligence in pandemic settings.
- GOOD SAMARITAN (help during Emergency) COVER
- When care is rendered to individuals to whom the practitioner does not owe a duty, then his liabilities are reduced.
- Hence, rendering voluntary service outside one's specialization or after retirement may be considered a Good Samaritan's service in difficult times.

4. Conclusion

- We are all in this together! And follow government regulation with self care.
- Medical practitioners are expected to go beyond the call of duty.
- All HCWs strive to abide by the highest ethical and moral standards despite difficult circumstances posed by the pandemic crisis.
- Yet, when these times pass and past practices are reviewed by future generations, one must not be caught off guard.
- Containing the pandemic and preserving patient rights, both should have equal priority despite moments of conflict.

5. Future Scope

Based upon the present study following point may need in future planning regarding prevention of communicable disease and COVID pattern:

To plan effective preventive strategies regarding communicable disease and especially COVID pattern as it was mostly cause of death.

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Ethical Clearance

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