

NO. MCI-211(2)/2013-Ethics/

**MEDICAL COUNCIL OF INDIA
SECTOR-VIII, POCKET- 14,
DWARKA, NEW DELHI**

Minutes of the meeting of the Ethics Committee held on 23rd March, 2013 at 09.30 A.M. in the Council Office, Sector- VIII, Pocket- 14, Dwarka, New Delhi. The following were present:-

1.	Prof. Sneh Bhargava	Chairperson
2.	Dr. R. B. Panwar	Member
3.	Dr. Vinay Sakhuja	Member
4.	Dr. Sanjay Gupte	Member
5.	Dr. B.G. Tilak	Member
6.	Dr. G. K. Sharma	Member
7.	Dr. Sangeeta B. Desai	Member
8.	Dr. Rama V. Baru	Member
9.	Dr. Atul Sood	Member
10.	Sh. Amit Bansal, Advocate	Member
	Dr. P.Prasannaraj	Addl. Secretary, MCI
	Dr. S. Barik	Consultant

Leave of absence from Dr. Y.K. Gupta & Dr. Kumudini Sharma was granted.

01. Minutes of the last meeting of the Ethics Committee- Confirmation of.

The Minutes of the Ethics Committee meeting held on 23rd February, 2013 were confirmed.

02. Review of Action taken on Minutes of the Ethics Committee meeting held on 23rd January, 2013.

The Ethics Committee reviewed the progress of action taken by the office on various items of the minutes of meeting held on 23rd January, 2013.

(Dr. R. B. Panwar) (Dr. Sanjay Gupte) (Dr. B.G. Tilak)

(Dr. Atul Sood) (Dr. Rama V. Baru) (Dr. G. K. Sharma)

(Dr. Sangeeta B. Desai) (Dr. Vinay Sakhuja) (Sh. Amit Bansal)

(Prof. Sneh Bhargava) – Chairperson)

03. Appeal by Mr. Gurpreet Singh against order dated 11.12.2012 passed by U.P. Medical Council against Dr. Garima Gupta, Neera Hospital, Lucknow (F. No. 123/2012).

The Ethics Committee considered the appeal filed by Sh. Gurpreet Singh against Order dated 11.12.2012 passed by U. P. Medical Council and noted that U P Medical Council vide its order dated 11.12.2012 held that *“the Screening Test done by HIV card could be false positive re-active reaction while patient’s husband and new born baby were HIV negative. For confirmation Dr. Garima advised for Western Blot test which was denied by the attendant and patient discharged on 01.05.2012. The Ethical Committee is of the opinion that Dr. Garima Gupta cannot be held guilty of medical negligence”*

After detailed deliberation and reviewing all the relevant records & documents, the Ethics Committee was of the view that the complainant has failed to produce any evidence to substantiate his claim of misbehaviour and fraudulent conduct on the part of the doctor. As per the standard procedure, HIV card test is required to be confirmed by Western Blot Test, which is mandatory.

Accordingly, the Committee agreed with the decision of the U.P. Medical Council and therefore, **appeal is disposed off.**

04. Appeal filed by Sh. Shiv Charan against order dated 23.11.2012 passed by U.P. Medical Council against Dr. Neelaksh, Dr. Rakesh Handa & Dr. Satendra Kr. Seth of Ambey Hospital (F. No. 487/2012).

The Ethics Committee considered the appeal filed by Sh. Shiv Charan against Order dated 23.11.2012 passed by U. P. Medical Council and noted that UP Medical Council vide its order dated 11.12.2012 held that *“delayed Thrombosis can occur in Pelvic Injury, it is known entity and complication of pelvic injury Initial examination shows that limb was warm, after 24 hrs limbs became cold. Doppler done and then patient was rightly referred to higher centre. The Ethical Committee is of the opinion that Dr. Neelaksh, Dr. Rakesh Handa & Dr. Satendra Kr. Seth could explain the prognosis of the patient in more effective ways and they should observed the procedure informed information to the attendants in future at the time of admission”*

After examining the appeal and the attached documents, the Ethics Committee decided to call both the parties i.e. Sh. Shiv Charan, Appellant and doctors of Ambey Hospital, Ghaziabad, Respondent for personal hearing with all the medical records and supportive documents available with them in the subsequent meeting.

Notices be sent to both the parties along with a copy of the appeal to the respondent, so that the concerned party may file a suitable reply to the appeal with an advance copy to the appellant before the subsequent meeting.

(Dr. R. B. Panwar)

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(Dr. Vinay Sakhuja)

(Sh. Amit Bansal)

(Prof. Sneha Bhargava) – Chairperson)

05. Appeal dated 15.10.2012 filed by Sh. Vikas Thakran against Order dated 01.08.2012 passed by U.P. Medical Council against Dr. Rakesh Chandra-reg. (F.No. 421/2012).

The Ethics Committee considered the appeal filed by Sh. Vikas Thakran against Order dated 01.08.2012 passed by U.P. Medical Council and noted that U.P. Medical Council vide its order dated 01.08.2012 held that *“Dr. Rakesh Chandra cannot be held guilty of misconduct, medical negligence or making fraudulent medico legal report as original records appears to be authentic.”*

After examining the appeal and the attached documents, the Ethics Committee decided to call both the parties i.e. Sh Vikas Thakran, Appellant and Dr. Rakesh Chandra, Respondent for personal hearing with the direction to bring all the original medical records and supportive documents available with them in the subsequent meeting.

Notices be sent to both the parties along with a copy of the appeal to the respondent, so that the concerned party may file a suitable reply to the appeal with an advance copy to the appellant before the subsequent meeting.

06. Appeal dated 23.07.2012 filed by Smt. Sumitra Devi against order dated 12.01.2012 passed by Rajasthan Medical Council (F.No. 309/2012).

The Ethics Committee considered the appeal filed by Mrs. Sumitra Devi against Order dated 12.01.2012 passed by Rajasthan Medical Council. It was noted that *“Mrs. Sumitra Devi had complained that she was admitted in Skin, STD and Leprosy ward of J.L.N. Hospital, Ajmer, due to mouth ulcer. She took treatment for six months, as advised by the doctors on 09.03.2010. She was again admitted for treatment and again discharged on 11.03.2010. After 15 days she felt restlessness and she became serious on 29.03.2010. She was admitted in ICU where she got relief after a costly treatment. She collected information of the treatment and came to know that DCP therapy was given to her without her consent therefore such situation arose. The Ethics Committee noted Rajasthan Medical Council order dated 12.01.2012 “they have gone through all the papers in this case, report was already given by a Medical Board.*

We are of opinion that patient has Leucopenia which is a known side affect of cyclophosphamide. There was no negligence on the part of treating doctor. The Council was agree with the opinion of penal and Ethical Committee. As there is no negligence the case is closed”

After examining the appeal and the attached documents, the Ethics Committee decided to call both the parties i.e. Mrs. Sumitra Devi, Appellant and Dr.

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Ashok Meherda through Principal, J. L. N. Medical College & Hospital, Ajmer, (Respondent's) for personal hearing with all the medical records and supportive documents available with them in the subsequent meeting.

Notices be sent to both the parties along with a copy of the appeal to the respondent, so that the concerned party may file a suitable reply to the appeal with an advance copy to the appellant before the subsequent meeting.

07. Appeal dated 24.12.2012 filed by Sh.Sudhansu Shekhar Mohanty, Bangalore against Dr. K.G. Kallur, Bangalore-reg.(F.No. 314/2012).

The Ethics Committee considered the appeal filed by Sh. Sudhansu Shekhar Mohanty against Order dated 19.07.2012 passed by U P Medical Council and noted that U P Medical Council vide its order dated 19.07.2012 held that *"Karnataka Medical Council is of the unanimous opinion that the Respondent Dr. K. G. Kallur has followed the Standard protocol while performing the PET Scan.*

The complainant has failed to establish "Negligence" on the part of the Respondent. With the result, the Case is dismissed."

After examining the appeal and the attached documents, the Ethics Committee decided to call both the parties i.e. Sh. Sudhansu Shekhar Mohanty, Appellant and Dr. K. G. Kallur, Respondent for personal hearing with all the medical records and supportive documents available with them in the subsequent meeting.

Notices be sent to both the parties along with a copy of the appeal to the respondent, so that the concerned party may file a suitable reply to the appeal with an advance copy to the appellant before the subsequent meeting.

08. Appeal dated 01.11.2012 filed by Sh. Sudhir Kumar Shrivastav against the order dated 03.08.2011 of U.P. Medical Council - reg.(F.No. 272/2011).

The Ethics Committee considered the appeal filed by Sh. Sudhir Kumar Shrivastav dated 01.11.2012 against Order dated 03.08.2011 passed by UP Medical Council. He has complained against Dr. Vipul Shah, who has prescribed Leflunomide to Mrs. Nidhi Shrivastava which was a hepatotoxic drug. Patient was treated subsequently at Sir Ganga Ram Hospital and later on shifted to Fortis Hospital where she eventually died on 17.01.2011 from multi-organ failure, septicaemia (drug induced hepatitis). The Ethics Committee noted that both the parties i.e. Sh. Sudhir Kumar Shrivastav, along with his Counsel and Advocate of Dr. Vipul Shah have appeared before the Ethics Committee for personal hearing.

(Dr. R. B. Panwar)

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The Ethics Committee heard the deposition of both the parties in detail and after going through all the relevant records/documents, the Ethics Committee noted that the Counsel for the Respondent doctor (Dr. Vipul Shah) submitted that the Council Office has not provided a copy of fresh Appeal filed by the Appellant.

The Ethics Committee further directed the Council Office to supply a copy of the fresh appeal along with its annexures to the respondent immediately and directed the Respondent to file replies to the appeal, if any, within two weeks with an advance copy to the appellant also.

In compliance of the directions of the Ethics Committee, copy of the same has been supplied to Dr. Vipul Shah in the meeting on 23.03.2013 along with a copy of the written submission filed on behalf of the Appellant.

The Ethics Committee directed that both the parties be called for further hearing in the subsequent meeting of the Committee.

09. Appeal dated 14.01.2013 filed by Mrs. Shalini Gupta against Dr. Nikhil Raheja. (F.No.. 459/2011)

The Ethics Committee considered the appeal filed by Mrs. Shalini Gupta against Order dated 30.08.2012 passed by Delhi Medical Council against Dr. Nikhil Raheja and noted that both the parties i.e. Mrs. Shalini Gupta, Appellant and Dr. Nikhil Raheja, Respondent have appeared before the Ethics Committee for personal hearing.

The Ethics Committee heard the deposition of both the parties in detail and after going through all the relevant records & documents/ Committee noted that Dr. Nikhil Raheja has submitted a consent letter issued by the father of the Appellant and discharge summary, medical treatment given by him to the applicant Mrs. Shalini Gupta alongwith a copy of complaint . The Appellant Mrs. Shalini Gupta is directed to submit the copy of medical certificate issued by Dr. Nikhil Raheja in support of her complaint.

The Ethics Committee also directed Dr. Nikhil Raheja to submit all his qualification/experience records (i) MBBS qualification record, (ii) Postgraduate qualification record in Psychiatry, (iii) Permanent Registration with additional qualification certificate issued by concerned Medical Council, (iv) certificate of training in Cognitive Behavior Therapy, and (v) the treatment records of Mrs. Shalini Gupta.

The case may be put up before the Ethics Committee in the subsequent meeting after receipt of the documents/papers from both the parties.

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10. Appeal dated 29.12.2012 filed Mr. Murad Hasan Mulla against Dr. Muneer Sufi Mhaskar and Dr. Jaydeep Date - req. (F.No. 517/2012).

NOTE:- Dr. Sanjay Gupte recues himself from the discussion on the above Agenda item.

The Ethics Committee considered the appeal filed by Mr. Murad Hasan Mulla against Order dated 29.10.2012 passed by Maharashtra Medical Council. The Appellant Mr. Murad Hasan Mulla had complained that he was suffering from urethral narrowing and initially seen by Dr. Muneer Sufi Mhaskar and later on operated by Dr. Jaydeep Date. In spite of assurance that he will be cured, he has not been cured and problem has become worse.

The Ethics Committee noted that both the parties i.e. Mr. Murad Hasan Mulla, Appellant and Dr. Muneer Sufi Mhaskar and Dr. Jaydeep Date, Respondents have appeared before the Ethics Committee for personal hearing. The Ethics Committee heard the deposition of both the parties in detail and after going through all the relevant record/documents, made following observations:-

1. Dr. Muneer Sufi Mhaskar

- (i) Dr. Muneer Sufi Mhaskar had not made proper diagnosis of the patient prior to the surgery,
- (ii) He did the surgery without relevant investigation and skills required for surgery which resulted in complication of urethral stricture.
- (iii) It was not a case of emergency but was an elective surgery case which could have referred to urologist.

It constitutes gross professional misconduct on the part of Dr. Muneer Sufi Mhaskar.

2. Dr. Jaydeep Date

Dr. Jaydeep Date used scrotal skin to bye-pass urethral stricture without explaining to the patient about the complications of hair growth, which is a known complication. Subsequently, he used mucosal graft which should have been his first choice. This act of commission constitute professional misconduct on the part of Dr. Jaydeep Date.

Decision

After detailed deliberation, the Ethics Committee was of the view that treatment provided by both the doctors constituted gross professional misconduct and medical negligence and, therefore, the Ethics Committee decided to remove the name of Dr. Muneer Sufi Mhaskar for a period of **THREE YEARS** and the name of Dr. Jaydeep Date for a period of **SIX MONTHS** from the Indian Medical

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Register/State Medical Register from the date of issue of the order of punishment by concerned Council.

Accordingly, the appeal is disposed off.

11. Appeal dated 17.07.2012 filed by Mr. Rishi Sabharwal against the letter dated 20.06.2012 of Delhi Medical Council - reg.(F.No. 245/2012)

The Ethics Committee considered the appeal filed by Mr. Rishi Sabharwal against the letter dated 20.06.2012 issued by Delhi Medical Council. The complaint is against Ft. Lt. Rajan Dhall Hospital, Vasant Kunj for medical negligence. The main allegation is that the patient was transferred to Mass and Surgery Department, when the patient was suffering from a brain stroke and the patient was sent to Mahajan Imaging Center, which is 15 km. away from the Fortis hospital for MRI Scan where there is no adequate medical assistance/facilities. Patient died on 31.03.2011. The Ethics Committee noted that Dr. Amit Shrivastava, Dr. Sanchayan Roy and Sh. Neeraj Sharma, Medical Record Officer, Respondents appeared before the Ethics Committee but the appellant Sh. Rishi Sabharwal did not appear before the Committee. The Medical Superintendent of Fortis Hospital and doctor of Mahajan Imaging Center, Hauz Khas were also called but they did not appear today before the Committee.

The Ethics Committee heard the deposition of Respondents in detail and after going through the relevant record/documents, the Ethics Committee desired to have the following information from Fortis Hospital:-

- 1) The name of treating physician who first attended the patient
- 2) Names of the whole team members of Fortis hospital associated in deciding and shifting from Casualty ward to I CU.
- 3) The name of doctor who has taken the decision for urgent MRI without assessing the condition of the patient and its justification.
- 4) The names of the doctors of Fortis Hospital involved in the treatment and shifting of the patient for MRI to Mahajan Imaging Center, Hauz Khas and back to Fortis Hospital with their specific role.
- 5) The protocol followed by hospital for shifting the seriously ill patient including facilities and precautions.
- 6) Facilities and equipments for resuscitation of patient in such critical condition.
- 7) Details of life support system and other facilities available in Mahajan Imaging Center, Hauz Khas.

After detailed deliberation, the Committee decided to call the full team of professionals of Fortis (list as provided during hearing) i.e. Dr. Pushkar, Dr. Atul Prasad, Dr. Amit Srivastav, Dr. Pinak Shrikhande, Dr. Sanchayan Roy, Dr. Sunita Kaul, Dr. Rajneesh, Dr. Abhijit Singh and Dr. Anupam Basumatary alongwith the doctor of Mahajan Imaging Center, Hauz Khas with all details of life support

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systems protocols followed by them in such serious conditions. The appellant Sh. Rishi Sabharwal may also be called in the subsequent meeting of the Ethics Committee.

12. Appeal dated 03.05.2012 filed by Sh. Wamanrao Vinayakrao Deshmukh against order dated 10.03.2012 passed by Maharashtra Medical Council - Reg. (F.No. 36/2012)

NOTE:- Dr. Sanjay Gupte recues himself from the discussion on the above Agenda item.

The Ethics Committee considered the appeal dated 03.05.2012 filed by Mr. Wamanrao Vinayakrao Deshmukh against order dated 10.03.2012 passed by Maharashtra Medical Council. Mr. Wamanrao Vinayakrao Deshmukh had complained that *his daughter Ms. Shweta Deshmukh, aged 21 year suffering with sudden fever and has been admitted in Sai Hospital and Critical Care Centre, Samarth Nagar in stable condition. She has refused to take "quinine" tablet as she has allergy from quinine. But the doctor has given two injection of the same medicine through intravenous and after 30-45 minutes, she died.* The Ethics Committee noted that both the parties i.e. Mr. Wamanrao Vinayakrao Deshmukh, Appellant and Dr. D. R. Prasanna Deshmukh, Respondent have appeared before the Ethics Committee for personal hearing. The Appellant, Mr. Wamanrao Vinayakrao Deshmukh requested the Committee to give one more opportunity to present before the Committee as his Senior Advocate was not present.

The Ethics Committee heard the deposition of both the parties and after detailed deliberation decided that in the interest of the justice, the Committee is agreed to give one more opportunity as requested by the Appellant. No further adjournment will be granted. Respondent doctor may also be called for the next hearing/meeting.

13. Clarification as requested by Ms. Bindu M.V (F.No. 216/2008)

The Ethics Committee considered the complaint regarding endorsement of food products of Pepsi and repeated harassment by group of doctors of IMA, Kerala Branch and noted that in the previous meeting, the Committee decided to call Dr. K. V. Babu and Dr. J. Raja Gopalan Nair, State Secretary, IMA Kerala for personal hearing but nobody appeared before the Committee for personal hearing. The Council Office has received an e-mail dated 21.03.2013 from Dr. Babu K. V. in which he has expressed his inability for attending the Ethics Committee meeting dated 23.03.2013. The e-mail dated 23.03.2013 reads as under:-

"I acknowledge the receipt of your above dated letter on 16.03.2013. Due to personal reasons, I will not be able to attend the personal hearing on

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23.03.2013, as directed by you. However, I am willing to appear the personal hearing in its next hearing, if allowed by the ethics committee. Meanwhile, I am sending the copy of the documents, as attaching document for your kind perusal & necessary action.
the contents of the e-mails

As per the above mail, the Ethics Committee considered and decided to provide final opportunity for hearing failing which decision will be taken ex-parte.

14. Appeal against order dated 30.08.2012 passed by Delhi Medical Council made by Sh. Shashi Kant Sharma against Dr. Ajeet Kumar of St. Stephen Hospital, Delhi.(F.No. 250/2012)

The Ethics Committee considered the appeal filed by Sh. Shashi Kant Sharma against the order dated 30.08.2012 passed by Delhi Medical Council. He had complained that on 20.11.2010 at 10.00 p. m. Late Mrs. Swatantra Lata suffered from Heart Attack and rushed to Deepak Memorial Hospital subsequently referred to St. Stephens Hospital, Delhi. The Ethics Committee was informed that the letters sent to Dr. Ajeet Kumar of St. Stephen's Hospital have been returned undelivered and it is also found that the said doctor is no longer working at the St. Stephen's Hospital. The letter should be addressed to the Superintendent of the hospital with the advise ton ensure that the communication of MCI for attending the meeting is delivered to Dr. Ajeet Kumar with a copy marked by MCI to the said doctor.

After detailed deliberation, the Ethics Committee decided as under:-

15. Appeal made by Sh. Lalit Ratanlal Adtani against order dated 22.02.2012 passed by Gujarat Medical Council. (F.No. 204/2012)

The Ethics Committee considered the appeal filed by Sh. Lalit Ratanlal Adtani against the order dated 22.02.2012 passed by Gujarat Medical Council. Sh. Lalit Ratanlal Adtani has complained that Sulochana Ben Ratanlal Adtani aged 60 years was diagnosed as cancer of ovary stage-3C. Patient was admitted and operated on 11.05.2006 and discharged on 23.05.2006 and subsequently advised chemotherapy by Dr. Vipul Desai. Dr. Vipul Desai behaved carelessly by not providing essential information about classified food and liquid stuff and did not narrate the remedies for stomach and renal problem against hot and heavy chemotherapy chemicals. The Ethics Committee noted that despite providing repeated opportunities, the appellant has failed to appear before the Committee. The committee after detailed deliberation on the appeal based on the material available in record, found no medical negligence on the part of the treating doctor. Therefore, the Committee decided to uphold the decision of Gujarat Medical Council. Hence, the **appeal is disposed off.**

(Dr. R. B. Panwar)

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16. Appeal dated 28.12.2010 filed by Dr. Arvind Poswal against the Order dated 07.12.2010 passed by Delhi Delhi Medical Council-reg. (F.No. 589/2010) & Appeal filed by Dr. Arvind Poswal against the Order dated 02.02.2012 passed by Delhi Medical Council.

The Ethics Committee considered the two pending appeals filed by Dr. Arvind Poswal against Dr. Charu Sharma. Both the parties were given personal hearing on 22.01.2013 & 23.03.2013. The position and the decision in the appeals are as under:-

1) Appeal dated 28.12.2010 filed by Dr. Arvind Poswal against the Order dated 07.12.2010 passed by Delhi Medical Council-reg.(F.No. 589/2010)

Dr. Arvind Poswal filed the present appeal against the Order dated 07.12.2010 passed by the Delhi Medical Council wherein, the Delhi Medical Council dismissed the complaint filed by Dr. Poswal against Dr. Charu Sharma.

Dr. Poswal had filed a complaint against Dr. Charu Sharma alleging that she had created two blogs and had been writing defamatory statements against him. Dr. Poswal relied upon the RTI reply dated 30.07.2010 given by Office of the Assistant Commissioner of Police, Cyber Crime Cell, PS EOW, Malviya Nagar, New Delhi. The Cyber Cell mentioned in its reply that the IP Address 122.163.182.42, from which blogs were written, was allocated to Charu Sharma, E-261, Grnd. Floor, Greater Kailash, New Delhi-110048.

The Committee is of the view that there is nothing defamatory in the contents of the blog, even if it is assumed that they have been uploaded from the IP address of Dr. Charu Sharma. Some readers have added their complaints to the blog, which may be defamatory, but they cannot be attributed to Dr. Charu Sharma. Accordingly, **the appeal is disposed off.**

2. Appeal filed by Dr. Arvind Poswal against the Order dated 07.02.2012 passed by Delhi Medical Council.

Dr. Arvind Poswal filed the present appeal against the Order dated 07.02.2012 of Delhi Medical Council vide which DMC has decided to issue warning to Dr. Charu Sharma. The Appellant states that the Disciplinary Committee of the DMC vide its order dated 02-02-2012 had recommended the punishment of removal of name of Dr. Charu Sharma from the State Medical Register for a period of one week. However, this has been later on reviewed and changed to 'warning'. The Ethics Committee has considered the matter and also given the hearing to both the parties/their Counsels.

The contention of the Appellant is that the DMC does not have the jurisdiction to review its own decision and, therefore, the punishment of one week could not be reduced to 'warning.' The Committee is of the view that

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this is not a case where DMC has reviewed its Order. The Disciplinary Committee had recommended the punishment of one week removal, which came up before the Executive Committee of the DMC for confirmation. The Executive Committee of the DMC decided that punishment of one week is very harsh and this should be a case of warning only. The Committee is of the considered view that this is not a case of review. Therefore, the Committee affirms the Order dated 07.02.2012 of Delhi Medical Council. Accordingly, **the Appeal is disposed off.**

17. Appeal dated 28.12.2012 filed by Sh. Sunil Kumar against Dr. Ramesh Kumar Kamra and Dr. Urmil Dhatarwal-Reg (F.No.01/2012)

The Ethics Committee considered the appeal filed by Sh. Sunil Kumar against Dr. Ramesh Kumar Kamra and Dr. Urmil Dhatarwal. Sh. Sunil Kumar has appealed on the grounds that MCI has transferred his complaint to Haryana Medical Council which did not decide the case within the stipulated period of 6 months. He has requested to withdraw the case. He has also alleged that Dr. Ramesh Kumar Kamra and Dr. Urmil Dhatarwal had issued forged/false Medico Legal Report to his wife Mrs. Rachna in June-2009. The Ethics Committee noted that both the parties i.e. Sh. Sunil Kumar, Appellant and Dr. Ramesh Kumar Kamra, Respondent have appeared before the Ethics Committee for personal hearing.

The Ethics Committee heard the deposition of both the parties in details. The Ethics Committee noted that Dr. Urmil Dhatarwal did not appear before the Committee and before concluding the matter her appearance is mandatory in the case. Therefore, the Committee decided to give final opportunity to Dr. Urmil Dhatarwal to appear before the Committee in the subsequent meeting.

18. Appeal dated 11.12.2012 filed by Dr. B.B. Sinha, Rao Tula Ram Memorial Hospital, New Delhi against order dated 20.11.2012 passed by Delhi Medical Council- Reg (F.No. 485/2012)

The Ethics Committee considered the appeal filed by Dr. B B Sinha against Order dated 20.11.2012 passed by Delhi Medical Council. Sh. Ravinder Singh Dagar has lodged a complaint in Police Station on 29.05.2010 against his neighbour Sh. Narender Nande that he gave him a beating which caused fracture in his right side shoulder. Sh. Ravinder Singh Dagar was taken by the Hospital through PCR Van and he was treated vide MLC No. 1673/2010. In X-ray report, prepared by Dr. L.R. Richhele, HOD of Radiology, clearly mentioned fracture in his right side shoulder. But on 22nd July, 2010, ASI Ved Prakash informed him that Dr. B.B. Sinha has reported the result as "Simple" on his MLC. He informed about the situation to the MS of the Rao Tula Ram Memorial Hospital, New Delhi and MS has

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called all the relevant persons in his presence and apprised him that there is some mistake on the part of Dr. B.B. Sinha. Because of the misconduct of Dr. B.B. Sinha, police officials did not take any action against the accused person i.e. Sh. Narender Nande. The Ethics Committee noted that both the parties i.e. Dr. B B Sinha, Appellant and Sh. Ravinder Singh Dagar, Respondent have appeared before the Committee for personal hearing.

The Ethics Committee heard the deposition of both the parties, reviewed all the relevant records/documents submitted by both parties and after detailed deliberation, **decided to uphold the decision of the Delhi Medical Council** which reads as under:-

"..... the Council observe that in the light of the seriousness of professional misconduct committed by Dr. B B Sinha, issuance of just a warning to him, will not serve the interest of justice, hence, Council directs that name of Dr. B B Sinha be removed from the State Medical Register of Delhi Medical Council for a period of 30 days; stricture be recorded in State Medical Register of DMC. The Council further directed that Dr. B B Sinha be taken off the MLC duty.

The Order directing the removal of name from the State Medical Register of DMC shall come into effect after 30 days from the date of the Order."

Accordingly, **matter is disposed off.**

19. Appeal dated 04.10.2012 filed by Sh. Ram Kumar against Order dated 06.08.2012 passed by U P Medical Council-Reg. (F.No. 335/2012)

The Ethics Committee considered the appeal filed by Sh. Ram Kumar against Order dated 06.08.2012 passed by U.P. Medical Council. Sh. Ram Kumar had complained that his wife got medical assistance for her delivery at Shriram Medicare, Pilkhuwa run by Dr. Namita Agarwal. Dr. Namita Agarwal had performed a caesarean operation and his wife delivered a baby boy on 19.03.2012. His wife's condition deteriorated due to excessive bleeding and her condition became critical. Dr. Agarwal referred her 4 hrs after operation to another hospital in that critical condition without properly equipped ambulance facilities. She was declared dead on arrival at Sarvodaya Hospital, Ghaziabad. The Ethics Committee noted that both the parties i.e. Sh. Ram Kumar, Appellant and Dr. Namita Agarwal, Respondent have appeared before the Ethics Committee for personal hearing with all the medical records and supportive documents available with them.

The Ethics Committee heard the deposition of both the parties in detail and after reviewing all the relevant records/documents, the Ethics Committee observed the following:-

1. During the antenatal check-up, Hemoglobin of the patient was found around 8 gm%.

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2. No documentary evidence was available that doctor has advised blood transfusion during antenatal period.
3. Before the caesarian section, requirement of blood transfusion was not anticipated.
4. Post caesarian monitoring was inadequate.
5. When the condition of the patient deteriorated, trained medical attendant did not accompany the patient and there was delay in providing ambulance facility.

After considering all the above facts, the Ethics Committee noted that Dr. Namita Agarwal has not managed post partum haemorrhage efficiently which constituted professional/medical negligence on the part of doctor. Therefore, the Committee decided to remove the name of Dr. Namita Agarwal for a period of SIX MONTHS from the Indian Medical Register/State Medical Register. Accordingly, **matter is disposed off.**

20. Appeal filed by Mr. R. Rajendran against order dated 21.12..2010 passed by Tamilnadu Medical Council.(F.No.141/2011).

The Ethics Committee deferred the matter for the next meeting for detailed deliberation.

21. Complaint dated 10.01.2012 received from Smt. Brinda Karat, Member, Polit Bureau, CPI (M), Former Member, Rajya Sabha regarding violation of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002”(F.No. 615/2011).

The Ethics Committee deferred the matter for the next meeting for detailed deliberation.

22. Appeal u/s 24(2) of the IMC Act, 1956 by Dr. D.K. Gupta for restoration of name in Indian Medical Register.(F.No. 773/2010).

The Ethics Committee deliberated upon the issue and observed that a decision has already been taken by the Ethics Committee at its meeting held on 10.05.2011, which reads as under:-

“The Ethics Committee considered the appeal filed by Smt. Renu Khatri against the order dated 26.07.2010 of Delhi Medical Council and noted that in this appeal the concerned doctor had been exonerated and the Delhi Medical Council has refused to entertain this complaint. On perusal of records and oral examination of Dr. D.K. Gupta, the Ethics Committee noted that Dr. D.K. Gupta was using DNB(s), suffix, without completing the said course. The Committee noted that such usage was violation of the Clause 1.4.2 of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 which lays down that:-

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“Physicians shall display as suffix to their names only recognized medical degrees or such certificates/diplomas and memberships/honours which confer professional knowledge or recognizes any exemplary qualification/achievements.”

Therefore, the use of the DNB as suffix by Dr. D.K. Gupta with his name was wrong in terms of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002. The Ethics Committee feels the same amounts to professional misconduct and his name should be struck off from the Indian Medical Register for a period of one month from the date of communication of the order of the Ethics Committee. A copy of the order be also communicated to Delhi Medical Council. Dr. D. K. Gupta should also be directed not to use said qualification before his name in future.”

After receipt of the decision of MCI, Dr.. D. K. Gupta requested the Council for stay of the impugned order. The council Office obtained legal opinion in this regard from Retainer Advocate of the Council and the matter was again placed before the Ethics Committee on 23.08.2011, in which the Committee decided as under:-

“The Ethics Committee considered the appeal by Smt. Renu Khatri against order dt. 26.07.2010 of Delhi Medical Council and noted that as per Regulations as well as legal opinion given by Retainer Advocate vide email dated 23.08.2011 the Ethics Committee has no powers to review the matter.”

Thereafter, he has filed an Appeal in the Ministry against the order of MCI dated 10.05.2011 and the Central Govt., Ministry of Health & Family Welfare, New Delhi vide letter dated 16.11.2011 and 04.01.2012 forwarded the appeal u/s 24(2) of Indian Medical Council Act,. 1956 for Council’s comments. The said appeal was again placed before the Ethics Committee at its meeting dated 17.03.2012 and the Committee concluded as under:-

“The Ethics Committee considered the appeal of Dr. D.K. Gupta and noted that the Ethics Committee had already disposed off the case at its meeting held on 10.05.2011. The Ethics Committee further noted that as per the Hon’ble “Supreme Court has laid down the law that there is no provision to review its own decision” (Patel Chunibhai Dajibha V. Naravanrao Khanderao Jambekar & Anr., AIR 1965 SC 1457; and Harbhajan Singh V. Karam Singh & Ors., AIR 1966 SC 641), (Patel Narshi Thakershi & Ors. V. Shri Pradyumansinghji Arjunsinghji, AIR 1970 SC 1273; Maj. Chandra Bhan Singh V. Latafat Ullah Khan & Ors., AIR 1978 SC 1814; Dr. Smt. Kuntesh Gupta V. Management of Hindu Kanya Mahavidhyalaya, Sitapur (U.P.) & Ors., AIR 1987 SC 2186; State of Orissa & Ors. V. Commissioner of Land Records and Settlement, Cuttack & Ors. (1998) 7 SCC 162; and Sunita Jain V. Pawan Kumar Jain & Ors., (2008) 2 SCC 705, this court held that the power to review is not an inherent power. It must be conferred by law either expressly/specifically or by necessary implication and in absence of any provision in the Act/Rule, review of an earlier order is impermissible as review is a creation

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of statute. Jurisdiction of review can be derived only from the statute and thus, any order of review in absence of any statutory provision for the same is nullity being without jurisdiction)."

Now, Dr. D. K. Gupta has lodged a Writ Petition in Delhi High Court and the Council has received a copy of Order dated 28.02.2013 passed by Hon'ble High Court in the above mentioned WP in which Hon'ble Court has directed the MCI to consider the case of the Petitioner in meeting of the Ethics Committee as the matter is listed for hearing on 05.04.2013.

After considering the matter in details, the Ethics Committee decided to reiterate its earlier decision with modification to the effect that he shall only use the DNB degree suffix after duly qualifying the final examination.

23. Appeal dated 30.01.2013 filed by Sh. Arup Kumar Mukherjee, Kolkata against Dr. V.V. Lakshminarayan, Kolkata-reg.(F.No. 221/2012).

The Ethics Committee considered the appeal dated 30.01.2013 filed by Sh. Arup Kumar Mukherjee, Kolkata against Dr. V. V. Lakshminarayan, Kolkata and noted that Sh. Arup Kumar Mukherjee requested the Council to consider his appeal as the West Bengal Medical Council failed to conclude the matter within the stipulated time period of 6 months. The Council Office has also sent a letter dated 13.01.2013 to West Bengal Medical Council but the concerned Medical Council failed to reply the same.

After examining the appeal and the attached documents, the Ethics Committee decided to call both the parties i.e. Sh. Arup Kumar Mukherjee, Appellant and Dr. V. V. Lakshminarayan, Respondent for personal hearing with all the medical records and supportive documents available with them in the subsequent meeting.

Notices be sent to both the parties along with a copy of the appeal to the respondent, so that the concerned party may file a suitable reply to the appeal with an advance copy to the appellant before the subsequent meeting.

24. Appeal dated 20.02.2013 filed by Sh. Amir Hussain Bareilly against Dr. Brijeswar Singh, Bareilly-reg. (F.No.143/2012).

The Ethics Committee considered the appeal dated 20.02.2013 filed by Sh. Amir Hussain Bareilly against Dr. Brijeswar Singh, Bareilly and noted that UP Medical Council vide its order dated 07.11.2012 held that *"as far as treatment is concerned Dr. Brijeshwar Singh treated the patient without committing any negligence, even in Malignancy this treatment is indicated. However, Dr. Brijeshwar Singh did not suspect the presence of malignancy therefore he did not taken Bone Biopsy. The report of MRI is also shows Osteomyelitis. AIIMS report also shows query mark against the diagnosis.*

The Ethical Committee is the opinion that Dr. Brijeshwar Singh cannot be held guilty of medical negligence. Dr. Brijeshwar Singh get strict warning to should

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be maintain proper case sheet, record keeping and should be comprehensive treat the patients.”

After examining the appeal and the attached documents, the Ethics Committee decided to call both the parties i.e. Sh. Amir Hussain, Appellant and Dr. Brijeswar Singh, Respondent for personal hearing with all the medical records and supportive documents available with them in the subsequent meeting.

Notices be sent to both the parties along with a copy of the appeal to the respondent, so that the concerned party may file a suitable reply to the appeal with an advance copy to the appellant before the subsequent meeting.

25. Appeal against order dated 08.10.2012 passed by Delhi Medical Council made by Dr. Amitabh Gupta against Dr. Tarsem Jindal & Dr. Manish Gupta, Jaipur Golden Hospital, Delhi. (F.No. 475/2012)

The Ethics Committee considered the appeal filed by Dr. Amitabh Gupta against Order dated 08.10.2012 passed by Delhi Medical Council and noted that Delhi Medical Council vide its order dated 08.10.2012 held that *“no medical negligence can be attributed in the treatment administered to the complainant’s baby at Jaipur Golden Hospital.”*

After examining the appeal and the attached documents, the Ethics Committee decided to call both the parties i.e. Dr. Amitabh Gupta, Appellant and Dr. Tarsem Jindal & Dr. Manish Gupta of Jaipur Golden Hospital, Delhi (Respondent’s) for personal hearing with all the medical records and supportive documents available with them in the subsequent meeting.

Notices be sent to both the parties along with a copy of the appeal to the respondent, so that the concerned party may file a suitable reply to the appeal with an advance copy to the appellant before the subsequent meeting.

26. Appeal filed by Sh. Satish Chander Pasricha against order dated 08.10.2012 passed by Delhi Medical Council against Dr. Vineeta Goel, Dr. Vidant Kabra & Dr. Pankaj Pandey of Max Super-speciality Hospital, Patparganj, Delhi.

The Ethics Committee considered the appeal filed by Sh. Satish Chander Pasricha against Order dated 08.10.2012 passed by Delhi Medical Council and noted that Delhi Medical Council vide its order dated 08.10.2012 held that *“prima facie no medical negligence can be attributed on the part of doctors of Max Super Specialty Hospital, in the treatment administered to the complainant’s wife late Sunita Rani at Max Super Speciality Hospital.”*

After examining the appeal and the attached documents, the Ethics Committee decided to call both the parties i.e. Sh. Satish Chander Pasricha, Appellant and Dr. Vineeta Goel, Dr. Vidant Kabra & Dr. Pankaj Pandey of Max Super-Specialty Hospital, Patparganj, Delhi (Respondent’s) for personal hearing

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with all the medical records and supportive documents available with them in the subsequent meeting.

Notices be sent to both the parties along with a copy of the appeal to the respondent, so that the concerned party may file a suitable reply to the appeal with an advance copy to the appellant before the subsequent meeting.

27. Appeal dated 07.02.2013 filed by Dr. D P Ray against the letter dated 06.12.2012 of Delhi Medical Council- Reg. (F.No. 461/2012)

The Ethics Committee considered the appeal dated 07.02.2013 filed by Dr. D. P. Ray against letter dated 06.12.2012 of Delhi Medical Council and noted that Delhi Medical Council vide its order dated 06.12.2012 informed that the complaint pertains to administrative nature, therefore, they have referred the same to the Commissioner, Municipal Corporation of Delhi(North) for necessary action vide their letter dated 06.12.2012 but the Council has not received any reply from the MCD, Delhi in this regard.

After examining the appeal with attached documents, the Ethics Committee decided to call both the parties i.e. Dr. D. P. Ray, Appellant and Dr. D. K. Seth, Respondent for personal hearing with all the supportive documents available with them in the subsequent meeting.

Notices be sent to both the parties along with a copy of the appeal to the respondent, so that the concerned party may file a suitable reply to the appeal with an advance copy to the appellant before the subsequent meeting.

28. Appeal dated 08.10.2012 filed Sh. Biswajit Hazra against Order dated 30.04.2012 passed by West Bengal Medical Council-Reg. (F.No. 470/2012).

The Ethics Committee considered the appeal dated 08.10.2012 filed by Sh. Biswajit Hazra against Order dated 30.04.2012 passed by West Bengal Medical Council and noted that West Bengal Medical Council vide its order dated 30.04.2012 held that *“there is no mismanagement on the part of Dr. Sanjay De Bakshi in treating the patient, Monika Hazra, wife of complainant and charges against the doctor could not be substantiated. Hence, they were decided to close the complaint case”*. But the West Bengal Medical Council has not sent a copy of the order dated 30.04.2012 as per request of MCI.

After examining the appeal and the attached documents, the Ethics Committee decided to call both the parties i.e. Sh.Biswajit Hazra, Appellant and Dr. Sanjay De Bakshi, Respondent for personal hearing with all the medical records and supportive documents available with them in the subsequent meeting.

Notices be sent to both the parties along with a copy of the appeal to the respondent, so that the concerned party may file a suitable reply to the appeal with an advance copy to the appellant before the

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29. Appeal filed by Sh. Jai Kishan against order dated 24.04.2012 passed by Delhi Medical Council against Dr Sudhir Joseph, Dr. Farhat & Dr. Susnaks of Stephen's Hospital. Delhi. (F.No. 92/2012)

The Ethics Committee considered the appeal filed by Sh. Jai Kishan against Order dated 24.04.2012 passed by Delhi Medical Council and noted that Delhi Medical Council vide its order dated 24.04.2012 held that *"there appears to be a lack of awareness regarding this extremely rare entity and subsequent management. Halothane could have been avoided.*

"But unfortunately Dantrolene which is the drug of choice and most effective therapy, is not available in India.

"The Disciplinary Committee, however, advises Dr. Farhat consultant Anesthesiologist to keep her knowledge updated in the subject of Anesthesiology."

After examining the appeal with attached documents, the Ethics Committee decided to call both the parties i.e. Sh. Jai Kishan, Appellant and Dr. Sudhir Joseph, Dr. Farhat, Dr. Susnaks, Respondents for personal hearing with all the medical records and supportive documents available with them in the subsequent meeting.

Notices be sent to both the parties along with a copy of the appeal to the respondent, so that the concerned party may file a suitable reply to the appeal with an advance copy to the appellant before the subsequent meeting.

30. Representation received from Shri Dhruba Bora, Gauhati-Unethical practice of a physician (Dr. Dhani Ram Baruah)-reg. (F.No. 701/2011).

Due to paucity of time, the Ethics Committee deferred the matter for detailed deliberation in the ensuing meeting.

31. Matter of Dr. Nirmal Kumar Ganguly, Ex- Director General, I.C.M.R., Dr. Sujit Kumar Bhattacharya, Ex. Additional Director General, I.C.M.R. & Dr. Bela Shah, Scientist 'G' & Head of N.C.D, I.C.M.R. against whom FIR/Charge sheets have been filed by Police Authorities/CBI.

Due to paucity of time, the Ethics Committee deferred the matter for detailed deliberation in the ensuing meeting.

The Meeting ended with a Vote of Thanks to the Chair.

New Delhi, 23rd March, 2013.

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