

Letter to Editor

Concept of advanced medical directives in the Indian scenario

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Dear Sir,

The review paper written titled “**Concept of advanced medical directives in Indian scenario**” was published in the month of July-Dec 2022 in which the need to amend the laws relating to the Advanced Medical Directives (AMDs) was discussed in detail and the conclusion and suggestions were given. This has attracted the attention of law enforcement agencies. A five Judge bench of the Supreme Court has agreed to pass directions to ease and simplify the procedures for framing the AMDs. A bench comprising Justice KM Joseph, Justice Ajay Rastogi, Justice Aniruddha Bose, Justice Hrishikesh Roy and Justice CT Ravikumar was considering an application filed by the Indian Council of Critical Care Medicine seeking modifications in the guidelines for Living Will/AMD as its previous directions have become unworkable. The Supreme Court has eased the norms for AMDs in relation to the requirements for the constitution of the medical boards, the experience of the doctors, and the attestation of the AMDs. These were more or less the same suggestions and conclusions given in the review article which was published in your journal. The final verdict of the Supreme Court was delivered on January 24, 2023. The various changes made by the Supreme Court of India are as under

1. The advance directive no more needs to be countersigned by a judicial magistrate. Instead, it could be attested before a notary or a gazetted officer if the notary or officer is satisfied that the document is executed voluntarily, without coercion or inducement, and with full understanding.
2. The executor can name more than one guardian or relative who would be authorised to give consent to refuse or withdraw medical treatment, in the event of the executor becoming incapable of a decision.
3. The onus to hand over a copy of the advance directive to the guardians or close relatives named in it, as well as to the family physician is now on the persons themselves instead of the Judicial Magistrate First Class (JMFC). These advanced directives may also be included in digital health records.

4. The hospital itself to constitute a primary medical board consisting of the physician and at least two subject experts with at least five-year experience to certify within 48 hrs, whether the instructions on refusal or withdrawal of treatment should be carried out.
5. Once it certifies that the advance directive needs to be carried out, the hospital will form a secondary board comprising one registered medical practitioner nominated by the Chief Medical Officer (CMO) of the district and at least two subject experts with at least five-year experience of the concerned speciality who were not part of the primary board, to frame their opinion within 48 hrs. The JMFC is relieved of the duty of forming the secondary board. The experience of the board members is also decreased from 20 years to 5 years. The hospital where the patient is admitted needs to then convey the decisions of the primary and secondary boards and the consent of the people named in the advance directive to the JMFC before giving effect to the decision to withdraw the medical treatment given to the patient. The requirement for the JMFC's visit to the hospital has now been removed.

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Cite this article: Kumar A, Barwa J, Pathak A, Singh R. Concept of advanced medical directives in the Indian scenario. *Int J Health Res Medico Leg Prae* 2023 Jan-Jun;9(1):8-9. Doi: 10.31741/ijbrmlp.v9.i1.2023.2