

POINT OF VIEW

LEGAL AND STATUTORY GUIDELINES FOR MEDICAL DEATH CERTIFICATION IN HOME DEATHS: INSIGHTS FROM SRI LANKA

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ABSTRACT

Introduction: A significant proportion of deaths occur outside healthcare facilities in Sri Lanka, where the general practitioner plays a substantial role in issuing the medical certificate of cause of death. The primary statutory document governing the medical death certificate is the Births and Deaths Registration Act. The Sri Lanka Medical Council released a guideline for medical practitioners on issuing the medical certificate of cause of death. Though general practitioners are legally obliged to provide the medical certificate of cause of death for home deaths, there are instances where they are reluctant to do so. This has led to family members of the deceased resorting to the alternative pathways in obtaining the medical certificate of cause of death in which the cause of death is decided by *grama niladhari* (a public administrative officer at village level) or an inquirer (a government appointee who plays a similar role as the coroner) both of whom are not medically trained. As a result, the quality and the accuracy of the cause of death given in these medical certificates of cause of death are poor. This affects families, mortality statistics, and public health research. It appears that the general practitioners tend to underreport deaths to the inquirer.

Objectives: The article aims to provide a concise and updated guide on the legal and ethical aspects of medical death certificates, particularly concerning home deaths, addressing many of the concerns and misconceptions.

Methods: We independently searched statutory legislations, acts, amendments, and ethical guidelines published up to September 2024 that contained legal and/or ethical provisions related to medical certification of death in Sri Lanka.

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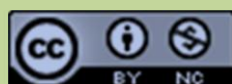
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Conclusions: We suggest capacity building for general practitioners in medical death certification and providing them with access to resource materials to encourage them to complete the medical certificate of death, particularly in home deaths. This will minimise the public resorting to other non-medical government administrative officials for issuing the medical certificate of death. We also suggest reforms to the Birth and Death Registration Act of Sri Lanka and the Code of Criminal Procedure on the death investigation process, and update the Sri Lanka Medical Council guidelines on death certification.

Keywords: *Death declaration form; general practitioner; home deaths; inquest procedure; medical certification of cause of death*

INTRODUCTION

The Annual Health Bulletin of the Ministry of Health, Sri Lanka, reported 52000 deaths in all health care facilities in 2017¹. In addition, the Department of Census and Statistics recorded 140000 total deaths during the same period². Accordingly, about 70% of deaths occurred outside healthcare facilities. This percentage includes deaths that occur at home.

In home deaths, through the Births and Deaths Registration (BDR) Act of 1951 of Sri Lanka, several officials, namely, the medical practitioner who treated the deceased last, the *grama niladhari* (a public administrative official at the village level), the inquirer into sudden death (a government appointee who plays a similar role as the coroner), police officer, or estate superintendent (if the deceased is an employee of a plantation estate) are empowered to issue the medical certificate of the cause of death (MCCD)³. It is worth noting that out of the above officials, only the medical practitioner has medical training. The MCCD is a statutory document that is needed to obtain the Death Certificate (DC) from the Registrar of Births and Deaths. DC is a vital document mandatory for various procedures, including the disposal of the body, financial and legal transactions involving the deceased, and family members. In a significant proportion of natural deaths occurring at home, the next of kin of the deceased contact their general practitioner (GP) for the MCCD. However, there are instances where the GPs are reluctant to provide the MCCD, leaving the family members with no choice but to take an alternate pathway to obtain the MCCD from 'non-medical' officials who are empowered to issue the MCCD. Studies identified significant errors in the cause of death in the DC issued by such officials, which can affect families, mortality statistics, and public health research^{4,5}.

The inquest is important in providing valuable mortality statistics, public safety, and justice. However, GPs tend to 'under-report' deaths to the inquirer⁶. Furthermore, studies have found that the GPs correctly identified only 3% of all deaths that should have been reported to the inquirer⁷. Several factors can contribute to this, including a lack of knowledge about reportable

deaths and family pressure to avoid an inquest procedure, which can delay the funeral arrangements. Similarly, under-reporting can lead to serious consequences such as distorting the mortality statistics and unmasking potential public health issues such as outbreaks of disease and patterns of violence. The under-reporting to the inquirer and the legal safety mechanism of the inquest were further highlighted in the "Luce inquiry" on the Harold Shipman controversy⁸.

These deficits highlight the necessity for continuous education of GPs as a professional development strategy implemented by many countries to ensure a high-quality death registration system. This paper is written with GPs in mind, and some of the information applies only to Sri Lanka. It aims to fill that lacuna by providing a concise and updated guide on the legal and ethical aspects of medical certification of cause of death, particularly concerning home deaths, addressing many of the concerns and misconceptions.

METHODS

We independently searched statutory legislations, acts, amendments, and ethical guidelines published up to September 2024, which contained legal and/or ethical provisions related to certification, reporting, investigation, and registration of death in Sri Lanka. Table 1 shows the documents and relevant sections that were identified. We did not include circulars or regulations that were introduced in special circumstances, such as the Prevention of Terrorism Act, death disposal during the COVID-19 pandemic, or emergency regulations.

Table 1: Statutory documents and published guidelines related to the medical certification of the cause of death reviewed for this article.

	Document	Year of last update/ amendment	Relevant areas
1	Criminal Procedure Code of Sri Lanka	1979	Sections 369-373
2	Births, Deaths Registration Act No. 17 of 1951	2008	Sections 29 - 39
3	Sri Lanka Medical Council Guidelines for Medical Practitioners and Dentists Medical Certification of Death	2016	Guidelines regarding certificates of cause of death (Pages 3-5)
4	Sri Lanka Medical Ordinance	2018	Sections 29,33
5	Ministry of Justice circular (13/2018) on mandatory post-mortem on maternal deaths	07.09.2018	Whole circular
6	Ministry of Justice circular (3/2008) on indications for mandatory post-mortems	02.10.2008	Whole circular

DISCUSSION

1. Professional guidelines and laws on medical certification of the cause of death in Sri Lanka

The statutory procedure related to the issuing of an MCCD is detailed in the Births and Deaths Registration Act³. “In the event of the death of any person who has been attended during his last illness by a medical practitioner, a certificate in duplicate, substantially in the form J set out in the schedule, stating to the best of his knowledge and belief the cause of the death, shall be forthwith issued without fee or reward by such practitioner to the person required under this act to give information.”

The Sri Lanka Medical Council (SLMC) released a guideline in 2004 related to issuing medical certificates⁹. This guideline incorporates the above legal provisions and criteria that need to be fulfilled to issue an MCCD. In 2021, the Ministry of Health, Sri Lanka, issued a “Handbook for Sri Lankan Doctors on Cause of Death Certification”,¹⁰ which includes procedural details as well as theoretical aspects of writing the cause of death based on the World Health Organisation’s guidelines. Accordingly, to issue an MCCD, the medical practitioner should ensure that,

- The cause of death is known.
- The cause of death is natural.
- The doctor is the attending physician of the last illness that has led to the death of the deceased.
- The doctor has treated the deceased recently.
- The doctor has viewed the body.
- Based on these guidelines, several thematic elements are discussed that are relevant to GPs (Fig. 1).

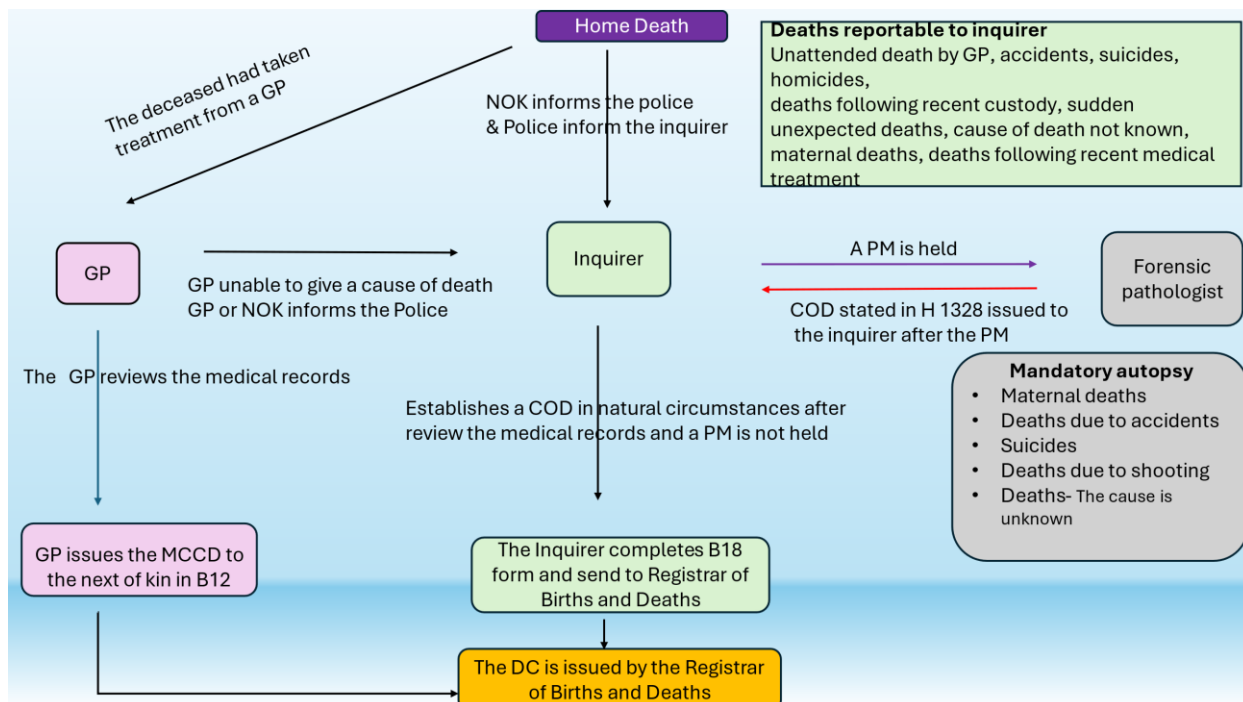


Figure 1: Navigating home death certification: a stakeholder flowchart. COD – cause of death, DC - death certificate, GP – general practitioner, MCCD – medical certification of cause of death, NOK – next of kin, PM – post-mortem.

1.1. The medical certificate of the cause of death should be issued by a medical practitioner

Here, the term "medical practitioner" refers to a doctor who treats the deceased individual, working in public or private hospitals, including GPs practicing within the community. Sri Lanka has a health care system that is a combination of allopathic and indigenous medical practices, and there is often a cross-utilisation of both types for the same illness¹¹. In terms of the Births and Deaths Registration Act, however, only allopathic doctors or apothecaries who are registered in the SLMC are legally allowed to provide MCCDs³. This has been further ratified in the section 37 of the Medical Ordinance¹². For more than a century, GPs have played a predominant role in the primary healthcare sector of Sri Lanka¹³, and a large proportion of these GPs cater to a specific community throughout their career. Recent attempts to improve the primary health care system have also introduced specialist family physicians affiliated with state hospitals¹⁴. Therefore, especially in home deaths, GPs have the primary legal responsibility to issue an MCCD.

A GP who refuses to issue an MCCD without a valid reason could be penalised through Section 65 of the Births and Deaths Registration Act, which states that "Every medical practitioner who neglects or refuses to issue a certificate as required by section 31 shall be guilty of an offence and shall be liable to a fine³. However, as discussed in the subsequent sections, this would apply only to deaths that occur due to natural illnesses for which the GP had treated the deceased.

1.2. The doctor should be the attending physician of the last illness of the deceased and have treated the deceased recently

In well-established GP health systems in developed countries, the patient is registered in the health institution, and the GP is a registered practitioner of the institution. The patient nominates the GP as his regular GP. Thus, with a clear therapeutic relationship, the GP is bound to issue the MCCD to patients registered under the GP.

Although the term ‘attended’ can present a degree of confusion, particularly as it is not clearly defined in the guideline, it means a doctor who had cared for the patient during the illness that led to the death¹⁵. Moreover, the death declaration form (form B33 of the Government Press of Sri Lanka) has highlighted that “the medical practitioner who treated the deceased must complete this form.” However, in today’s context of complex and multidisciplinary health care, most illnesses are treated by a combination of doctors, in which the GP may have played a minor part in the treatment or only been a referral point. When the GP has access to the relevant medical records and is familiar with the deceased’s medical history, investigations, and treatment, the GP can issue an MCCD if the GP is certain of the progression of the illness. However, there should be a recent encounter of the patient with the relevant GP before the demise. The GP responsible for the deceased person’s medical care during their last illness should be adequately convinced as to the cause of the death, and no other circumstances are present that require the death to be reported to the coroner/inquirer¹⁶. Even when a deceased’s GP is absent or unavailable, another GP in the practice can complete the death certificate provided they have sufficient information to do so, and the death is not required to be reported to the coroner/inquiry¹⁶.

On the other hand, if the GP only attended to the deceased during their final moments or was called after death and just certified the death, they cannot give an MCCD due to insufficient knowledge, as the GP should have treated the last illness that had led to the death. Therefore, the GP should not issue the MCCD in an “unattended death” where the GP has not been involved in the patient’s care.

Similarly, there are no clear guidelines regarding the duration acceptable for ‘treated the deceased recently’ in Sri Lanka, which creates a degree of confusion, particularly as the term ‘recently’ is not clearly defined. However, many guidelines from developed countries have defined this duration^{15,17}.

This can be as long as 6 months, indicating even with a regular patient, if the patient was not

treated at the specified time, an MCCD cannot be issued¹⁸. The concept here is that the doctor who treated the patient should know the extent of the disease, its complications, the patient’s response to treatment, etc.

1.3 The doctor is the attending physician of the last illness that has led to the death of the deceased

It is also necessary to ensure that the death is due to the most recent illness for which the deceased was treated by the GP. These apply even to patients with chronic illnesses, as the cause of death may still be different. Understandably, to issue an MCCD in an illness, a competent GP should be able to consider if death is a likely outcome of that illness or its treatment. If a patient dies who is on treatment for a non-fatal condition like a simple upper respiratory tract infection or osteoarthritis of the knee, the GP would not be able to determine the cause of death, as the death is unexpected. Thus, GP needs to refer this to the inquirer for an inquest.

1.4 The medical certificate of cause of death should be issued in a specific format

The statutory form to be used by GPs when issuing an MCCD is given in the Births and Deaths Registration Act as form J. The same form is commonly known as form B12, as per its reference number given by the Government Press. The local guideline highlighted the importance of issuing the MCCD on the B12 form rather than on their personal letterheads or blank sheets⁹. Furthermore, as per the Births and Deaths Registration Act, the B12 form must be provided to the next of kin in duplicate. Printed B12 forms can be obtained at the Registrar’s Office of the Divisional Secretariat.

1.5 The medical certificate of cause of death should be issued without a fee or reward

The Births and Deaths Registration Act clearly states that the MCCD should be issued as an honourable service, and the MCCD cannot charge a professional fee nor receive any form of reward or benefit. This law should also apply to private hospitals where they charge for issuing the MCCD

and include that in the hospital bill, disregarding the Births and Deaths Registration Act.

1.6 The issue of the medical certificate of cause of death to a relative

In many countries, the GP is unable to issue an MCCD if the deceased is a close relative of the GP. This is to prevent issues related to conflict of interest and ensure objectivity of the process.¹⁹ However, no statutory provision in Sri Lanka bars a doctor from issuing an MCCD to a relative, friend, or neighbour if the GP has been directly involved in that person's care during the last illness. However, this may pose specific ethical and legal challenges. It may raise conflict of interest issues and even allegations of improper conduct, as well as medical negligence, if suspicions are raised regarding the death.

1.7 The cause of death given in the medical certificate of cause of death should be valid and defensible

It is understood that a general practitioner is not expected to determine the cause of death with complete certainty³. However, the GP needs to be able to determine the cause of death based on the understanding of the illness and the patient's medical history, recent investigation findings, and the circumstances surrounding the death. When the cause of death is uncertain, reasonable steps should be taken to obtain sufficient information to determine the cause of death, which includes reviewing the medical records and contacting other health professionals involved in the recent care of the deceased. If the GP is still unable to ascertain the cause of death after all such steps have been taken, then the death must be reported to the inquirer. If any legal issue arises regarding the death in the future, the MCCD can be subjected to legal scrutiny. If the opinion of the GP does not hold up under the adversarial cross-examination in court, this could raise doubts about the GP's competence. The penalty for providing false information in the MCCD is substantial. As per the section 68 of the Births and Deaths Registration Act, any individual who issues a false certificate will be liable to a fine and rigorous imprisonment for a maximum of 7 years³. Similarly, as per the section 33 of the Medical Ordinance, if a medical practitioner is

found guilty of making a false statement to register a birth, death, or stillbirth or obtain a certificate, their name may be removed from the register¹². Therefore, the GP is expected to provide a rational, evidence-based opinion on the cause of death, which should be justified based on the medical records and clinical features.

1.8 The cause of death should be known, and the circumstances of death should be natural

The GP responsible for the patient's care should thoroughly review medical records and relevant facts before issuing an MCCD. The GP must have convincing evidence to support the opinion that the death is due to natural circumstances. A natural death is defined as a death related to an internal bodily event not influenced by external occurrences¹⁶. Thus, a death caused by pneumonia, infections, cancer, stroke, or heart disease is classified as a natural death from a medical point of view. Unnatural deaths are homicides, accidents, suicides, poisoning, medical errors, and drug overdose²⁰. Sometimes it can be difficult to determine whether an individual's death is simply 'natural' or 'unnatural' due to the multifactorial nature of deaths in people who are undergoing treatment for diseases. Wherever death has an association with an external factor, either due to the fault of the patient or a third party, it should be considered unnatural. It is important to remember that sometimes deaths that are clinically perceived to be natural may legally be considered unnatural²⁰. Examples include a patient bedridden following a motor vehicle accident, dying from pneumonia several months after the event, or a patient dying of renal failure from a chronic exposure to a toxic substance.

1.9 The body should be viewed before issuing a medical certificate of cause of death

The final criterion in the SLMC guidelines is that the GP must conduct an external examination of the body. Although a medical diagnosis of the cause of death cannot be established with the external examination, it provides additional information to serve the judicial process and public interest²¹. The external examination is an important screening process to prevent the

concealment of deaths due to violence or negligence²¹. Reviews have shown several instances where homicides have been missed or overlooked during medical death certification²¹. Ideally, the external examination must be carried out with the body of the deceased completely undressed and all regions of the body, including all body orifices, the back, and especially the head and neck, visible. However, this can be a difficult task for obvious reasons. However, a GP is expected to view the body with this level of scrutiny²¹. Therefore, the GP must use his or her good sense and judgement and take adequate precautions to satisfy himself or herself that the circumstances are natural and clear. Furthermore, if the history or medical records do not indicate a likely natural cause of death, the GP may be unable to establish the likely cause of death. Thus, as per the Criminal Procedure Code (CPC) Act and the guidelines, when the COD is unknown or if a person dies suddenly when in apparent good health, an inquest must be held²².

2. The legal and ethical obligations of the general practitioner in Inquests

2.1 Obligations to refer deaths for Inquests

The GP can refuse to grant an MCCD if the death was not due to the illness that he had treated. In situations where such death is unexpected and the GP is unable to determine a cause of death or if the GP believes that the death may have been due to unnatural causes, the legal obligations of the GP would then fall under that of any ordinary citizen to notify sudden or unnatural deaths, death by violence, or deaths under suspicious circumstances as stipulated in section 21(b) of the CPC²³. "Every person aware of such death shall, in the absence of reasonable excuse, carry the burden of proof, which shall lie upon the person so aware, and forthwith shall give information to the nearest Magistrate's Court or the Officer in charge of the nearest police station or to a peace officer or the *grama niladhari* of the nearest village, of such commission or intention or of such sudden, unnatural, or violent death or death under suspicious circumstance or of the finding of such dead body"²³. Therefore, the GP has a legal obligation to notify the police or the *grama niladhari* of such deaths. Such information would then normally lead to an inquest as per

the CPC (Table 2). As deaths that are to be reported to the nearest police or *grama niladhari* are grouped very broadly in the CPC, we would like to expand Section 21(b) of the CPC and suggest deaths indicated in Table 2 to be considered as 'reportable deaths.' We present this as an easy reference for GPs, and it is still in accordance with the CPC. Many developed countries have laws on reportable causes of death to the coroner/inquirer²⁴.

Table 2: Suggested 'reportable deaths' to the Police in Sri Lanka (as per section 21(b) of the Criminal Procedure Code)

i.	Death due to poisoning, exposure to a toxic substance, death due to use of a medicinal product, controlled drug, or psychoactive substance.
ii.	Death due to violence, trauma, or injury.
iii.	Death was due to self-harm.
iv.	Death was due to neglect, including self-neglect.
v.	Death was due to a person undergoing a medical treatment or surgical procedure of a similar nature.
vi.	Death was due to an injury or disease attributable to any employment held by the person during the person's lifetime.
vii.	Death was unnatural, but does not fall within any of the circumstances above.
viii.	The cause of death is unknown, or sudden and unexpected deaths not caused by a readily recognized disease.
ix.	The person died while in custody of the police or in a mental or leprosy hospital or prison.
x.	There is no attending medical practitioner to sign the death certificate.
xi.	The identity of the deceased person is unknown.
xii.	Deaths that occurred while the woman concerned was giving birth or that appear to have been a result of that woman being pregnant or giving birth.
xiii.	Died under suspicious circumstances, or any person is found dead without being shown that such a person came by his death.
xiv.	Died due to rash or negligent act of another person.
xv.	Been killed by another person.

2.2 Inquest law in Sri Lanka

The law on inquests in Sri Lanka is specified in the sections 369 to 373 of the CPC Act No. 15 of 1979²². “Every inquirer on receiving information that a person has committed suicide or has been killed by an animal or by machinery or by an accident or has died suddenly or from a cause that is not known shall immediately proceed to the place where the body of such deceased person is and there shall make an inquiry and draw up a report of the apparent cause of death. The report shall be signed by such inquirer and shall be forthwith forwarded to the nearest magistrate. If the report or other material before him discloses a reasonable suspicion that a crime has been committed, the magistrate shall take over the proceedings. When any person dies while in the custody of the police or in a mental or leprosy hospital or prison, the officer who had the custody of such person or was in charge of such hospital or prison, as the case may be, shall forthwith give information of such death to a magistrate of the magistrate’s court within the local limits of whose jurisdiction the body is found, and such magistrate shall view the body and hold an inquiry into the cause of death.”

In Sri Lanka, inquests are conducted by the magistrate or the inquirer, with the overarching authority being placed on the magistrate. The inquirer stipulated in the above sections of the CPC is commonly known as the inquirer into sudden death (ISD). They are appointed by the Ministry of Justice according to the provisions given by the CPC and have been granted certain legal powers by the CPC, such as the power to summon any individual or obtain any documents that may be considered important for the inquest. In situations where the GP can provide information regarding the deceased person’s previous health status, such information could greatly facilitate the inquest process and ease the burden on the family. In the authors’ experience, GPs rarely contribute to the inquest procedure, often due to an exaggerated ‘fear’ of the legal process. This reluctance may also be due to the inadequate health record-keeping among GPs, which has been identified as a deficiency in primary health care service in Sri Lanka²⁵.

2.3 The GPs’ role in home deaths where medical certification of death is not possible

Even if the GP cannot provide an MCCD, there are several ways in which the GP can still contribute and assist the family and next of kin in sudden and unnatural home deaths.

i. *Verification of death and the identity of the deceased person*

As a medically trained doctor, the GP is in the best position to confirm that the patient is dead. Where the patient has been seen by the GP previously, the GP can verify the identity of the deceased person. It is recommended to attach name bands with the deceased person’s information, such as name, date of birth, and address, to their wrist or ankle when verifying their death²⁶. The GP may also be able to provide important medical information, such as evidence of previous surgeries, therapeutic interventions, and even radiological images, which may be useful identification markers to confirm the identity of the deceased. This is especially important when the body is in a visually unrecognisable state due to decomposition or mutilating trauma.

ii. *Ascertaining the time of death*

When a death occurs under medical supervision, the time of cardiac arrest or confirmation of fixed dilated pupils can be taken as the time of death. However, in the home death situation, often where the dead body was found without being attended to by any paramedics, this would not be possible. Nevertheless, the GP, a medically trained person present at the scene of the death, could at least establish the upper and lower limits of the possible time since death.

iii. *Facilitating the inquest process*

GPs need to have a good understanding of the legal policies and procedures related to inquests in home deaths so that they can educate the family members on the importance of the inquest procedure, including the necessity of submitting previous medical records, proper identification documents, and ensuring the presence of a legally valid next of kin. In the authors’ experience, many families are unaware of these procedures and face several hardships during the inquest. In this respect, the GP can be

a vital referral point as well as a facilitator to further enhance the family's cooperation and smooth completion of the inquest.

RECOMMENDATIONS

Improve capacity building for GPs on medical death certification in the form of regular multidisciplinary workshops involving GPs, legal experts, and public health officials to cover legal, ethical, and procedural aspects, and develop online courses to streamline the process.

To provide GPs with access to resource material such as a handbook, clear user-friendly guidelines, and manuals that outline the process of death certification, including examples of common scenarios.

Conducts regular audits on death certification and provides constructive feedback to the GP to enhance skills.

Suggest amendments to the sections 369 to 373 of the CPC to introduce the mandatory reporting of certain types of death by medical practitioners to the inquirer when they become aware of the deaths during their professional duties, clearly outlining the specific circumstances under which such notification to the police is required and the circumstances in which a mandatory autopsy is required.

The existing guidelines on death certification issued by the SLMC require revision to ensure greater clarity and consistency in medical death certification with unambiguous definitions and to eliminate potential areas of confusion, such as the appropriateness of issuing a medical certificate of cause of death to relatives of the certifying medical practitioner. Furthermore, a precise definition of what constitutes "a doctor has treated the deceased recently" should be clearly outlined.

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CONFLICTS OF INTEREST

The authors declared no conflicts of interest.

ETHICAL ISSUES

None.

SOURCES OF SUPPORT

None.

AUTHOR CONTRIBUTIONS

PA: Conception and design of the work; the acquisition, analysis, or interpretation of data for the work; drafting the work and reviewing it critically for important intellectual content; final approval of the version to be published; and Agreement to be accountable for all aspects of the work in ensuring that questions related to the accuracy or integrity of any part of the work are appropriately investigated and resolved. **RS:** Drafting the work and reviewing it critically for important intellectual content; final approval of the version to be published; and agreement to be accountable for all aspects of the work in ensuring that questions related to the accuracy or integrity of any part of the work are appropriately investigated and resolved. **SAG:** Drafting the work and reviewing it critically for important intellectual content; final approval of the version to be published; and agreement to be accountable for all aspects of the work in ensuring that questions related to the accuracy or integrity of any part of the work are appropriately investigated and resolved.

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