Module 3 for health professionals: The medico-legal aspects

Timeframe: This Module will take app. 1 hour

Content:

1. The medical certificate (Input and exercise, 45 minutes)

2. Notification and professional confidentiality (Input, 10 minutes)

Health professionals have a vital role to play in caring for victims of violence, but the specific role of doctors is to draw up a medical certificate which the victim will be able to use, either immediately after the examination or at a later date, to lodge a complaint.

It is therefore crucial to talk about the importance of this medical certificate and how to draw it up, and the partnership with the legal institutions that are going to use it.

This module has three objectives:
- To remind participants that they need to draw up a medical certificate/medical report or have one drawn up
- To learn how to draw it up correctly
- To learn about the deontological context
Background information for trainer

1. The medical certificate
A medical certificate is a medical statement. In it, the doctor describes the physical and psychological pathologies he or she sees, or absence of them.

This document is important for lodging a complaint: although not obligatory, it is often an essential document requested by the police. It is an objective piece of evidence that the legal authorities can use to decide which procedure to adopt. It is a means of establishing whether abuse actually took place and how serious it was. Domestic violence is a criminal offence.

The certificate may be:
- Drawn up at the request of the person concerned and therefore submitted to him or her personally;
- Drawn up by requisition and submitted to the requesting authority.

It is important that the certificate should be legible, written in precise, simple and intelligible terms comprehensible by non-medical persons, without abbreviations.

It is useful to keep a copy in the medical file.

To include in a medical certificate:
1. Information concerning the identity of the doctor
2. Date, time and place of the examination
3. Transcription of the victim’s statement: identity, date of birth, address, summary of the attack as reported by the victim, grievances expressed by the victim at the time of the examination. This paragraph must be drawn up so as to clearly distinguish the subjectivity of the statement in relation to the following paragraphs (for example, use inverted commas, viz. “who declares: “….”)
4. Full and objective description:
   a. Physical injuries: the injuries and their appearance must be clearly described in appropriate terms (ecchymosis, bruising), as well as their position, extent and from when they date. A body diagram of the injuries, or colour photographs (accompanied by an authorisation to take photos signed by the patient) may be enclosed with the certificate.
   b. Functional impact: the functional consequences of the injuries taking into account the doctor’s objective assessment and the victim’s affirmations (perceived pain, fatigue, discomfort, etc.)
   c. Diagnosed psychological trauma: state of shock, depression syndrome, state of anxiety, sleeping disorder, post-trauma syndrome, etc. must be indicated.

It is difficult to assess lasting psychological trauma resulting from a previous history of chronic violence. It is useful, with the victim, to look for chronological points of reference in series of aggressive acts that could be isolated in the behaviour by the perpetrator and might correspond to especially severe disturbances.

In all cases, it is of prime importance that any psychological trauma should be diagnosed and reported on the medical certificate. Its existence is a sign of the impact
of psychological abuse and routine violence. It is often more serious and more difficult to treat than simple bruises.

d. Necessary treatments or treatments in progress, supplementary examinations which have been conducted.

5. It is advisable to give an opinion on the compatibility of the injuries and symptoms described with the alleged violence, and on the usefulness of conducting supplementary investigations or a new evaluation after a lapse of time.

6. Doctor’s signature

In France, a medical certificate concludes with an “ITT” (Incapacité Totale de Travail, meaning Total Incapacity to Work). The notion of ITT is defined in law as the time during which the victim feels noteworthy discomfort in carrying out routine actions (eating, sleeping, washing, dressing, shopping, travelling, going to work).

Medical certificate following sexual abuse:
For a long time, sexual abuse within couples was hushed up and even denied, even though some two-thirds of the victims of conjugal abuse also underwent sexual abuse.

Knowing how to deal with this is a delicate matter as the context is often one of a medical consultation for reasons other than rape.

If it is impossible to conduct a medico-legal examination in the proper conditions, notably using the proper equipment, it is better to direct the person to a hospital, forensic pathologist or gynaecologist.

In all cases, the discussion with the patient should be conducted with patience and respect, without doubting the victim’s word.

We recommend the WHO report on sexual violence:

The medical report:

It is very important to report the violence (type, history, context), the consequences of the violence, the services the patient received, the advice and referrals to other professionals.

The report can be completed by the doctors, the nurses, the midwife and all other health professionals.
Template for the medical certificate for physical assault

I, the undersigned, Doctor working at as

 certify that on (date) at (time of day)

 I examined a person declaring to be:

 Name
 aged yrs, of nationality
 and residing at

 and stating to have been the victim of:

 (Date) at (time) at (place) by

 The above complains of:

 Medical statement:
 Physical examination:

 Psychological examination:

 The injuries are compatible (or not) with the alleged acts although non-specific to them.
 I prescribe the following supplementary examinations to complete the medical file:

 Certificate drawn up at the request of the person concerned and submitted personally for all legal intents and purposes (or: certificate submitted personally to the requesting authorities).

 Doctor’s stamp and signature
Photographs

- Take photographs before providing medical care
- Colour photographs, preferably added to the medical file immediately
- View of the whole body and detailed views taken from different angles
- Take shots next to an object for comparison of the size of the injuries
- Include the face in one of the photos
- Take at least two photos of the principal areas of injury
- As soon as possible, write the date, patient’s name, the location of the lesions, the name of the photographer and the witness on the back of the photos
- Make sure that the photographs are put in a safe place and that the people having access to them are reliable
- Ask the patient to sign an authorisation to take photographs

Template of authorisation to take photographs

I, the undersigned, authorise ______________________ to take photographs of me

as part of the care being provided to me and agree to the negatives or developed photos being filed away carefully in a separate envelope for possible future use as a piece of evidence.

These photographs will be used solely by the competent authorities when the signatory gives permission to do so.

The signatory authorises no other use for these photographs.

Date:
Patient’s signature:
Patient’s full address:

Last name, first name, address and signature of witness:
Body diagrams
Buccal Cavity
Topic 2: Notification and professional confidentiality

Practitioners who are called upon to deal with a woman who has been the victim of conjugal violence are in a delicate situation. They are caught between their duty to protect the patients’ health and the obligations of professional confidentiality. The law does provide for reporting dangerous situations in certain cases, with the victim’s consent. Medical practitioners should act in accordance with their professional responsibility and personal conscience.

The Medical Deontology Code: Obligations of professional confidentiality

- The doctor must in all circumstances respect the principles of morality, integrity and commitment which are essential to the practice of medicine.
- Any doctor in the presence of a sick or injured person in danger or who has been informed that a sick or injured person is in danger must assist that person or ensure that the person receives the necessary care.
- If the doctor notices that the person has been subjected to abuse or ill treatment, he or she can, on condition that the person agrees, inform the legal authorities.
- When a doctor suspects that a person, to whom he or she has been called, has been the victim of abuse or neglect, he or she must implement the most appropriate means to protect that person, while showing prudence and discretion.
- If the person concerned is a minor of 15 years or less, or a person who is unable to protect him or herself due to age or his or her physical or psychological state, the doctor must, except in the case of special circumstances which he or she judges to be relevant, notify the legal, medical or administrative authorities.
- A doctor should not interfere in family affairs or in his or her patients’ private lives without a professional reason.
- When several doctors collaborate in the examination or the treatment of a patient, they must keep one another mutually informed; each practitioner must assume his or her personal responsibilities and make sure that information is provided to the patient.
- Any one of the doctors is free to refuse his or her participation, or to withdraw it, on condition that this does not harm the patient and that he or she informs his or her colleagues.

The Penal law: Duty to protect the patient’s health and notification of dangerous situations

Anyone capable of preventing a crime or physical assault on a person without risk to themselves or third parties and who voluntary abstains from doing so is liable. Professional confidentiality is not applicable to someone who informs the legal, medical or administrative authorities of abuse or neglect of which he or she is aware and which have affected a minor of 15 years or less, or on a person who is unable to protect him or herself due to age or his or her physical or psychological state; nor to doctors who, with the victim’s consent, bring the abuse they have seen during the exercise of their profession, and which give them cause to presume that sexual abuse of any nature has been committed, to the knowledge of the public prosecutor.
Disciplinary action brought against doctors for failure to respect professional confidentiality cannot be upheld in the case of disclosure of objectively perceived lesions or trauma to which disclosure the victim has given his or her expressed consent. Disclosure only poses a problem in two cases:

- Opposition on the part of the victim
- If the way the medical certificate is drawn up appears tendentious, suggesting that the practitioner is biased in favour of the patient.

Assessing the seriousness of the situation and the dangerousness of the aggressor is also part of the practitioner’s mission. If the victim appears to be in imminent danger or in such a state of vulnerability as to make him or her incapable of acting, the doctor is required to contact the legal, administrative or hospital authorities in order to protect the victim from the aggressor as rapidly as possible. Similarly, the doctor must ask the victim about the direct or indirect repercussions of the abuse on the couple’s children.

As the legislation is different between countries, you should inform yourself about the current legislation at the website of Council of Europe 2007:

**References:**

**WHO 2003:** Guidelines for medico-legal care for victims of sexual violence. Geneva  
http://whqlibdoc.who.int/publications/2004/924154628X.pdf

Council of Europe (2007): Legislation in the member States of the Council of Europe in the field of violence against women  
http://www.coe.int/t/e/human_rights/equality/05._violence_against_women/077_EG(2007)1_E.asp#TopOfPage
Practical Part

Topic 1: The medical exercise

**Timeframe:** 10 minutes of input and 35 minutes of exercise  
**Aims and objectives:**  
- to be able to draw up a medical certificate for the doctor, or a medical report for other health professionals  
- knowing content, importance and purpose of the medical certificate  
**Methods:**  
Participants must draw up a certificate or a report on the basis of a clinical situation; the trainer makes corrections and supplies additional information.  
**Material:**  
Ms X, aged 34, consults you in your capacity as a general practitioner. She asks for a medical certificate to be able to lodge a complaint with the police. She recounts that the previous evening her husband lost his temper again and hit her in the presence of the children. He held her by the arms, threw her on the floor and dragged her across the floor by the hair. Afterwards, she shut herself in the children’s bedroom with the children until the morning. This time, she has decided not to let the matter rest. She says that she is tired, at the end of her tether. She cries. Her right elbow hurts and she has difficulty bending it. She shows you erythemous marks on her arms, a scratch on her neck, occipital alopecia and old, yellow haematomas on her legs. She asks you to prescribe her some more of the sleeping pills that you have prescribed for her for several months.

**Description of the exercise:**  
Ask the participants to form small groups of 4-6 people. Give them the clinical case in the form of a written document and ask them to write the certificate or the report and designate a spokesperson. The groups have 15 minutes to draw up the certificate. The groups come together and the persons present each certificate (20 minutes). The trainer notes the elements of information given in the medical certificates on the board.  
10 minutes theory by the expert (PowerPoint).

**Notes for the trainer:**  
If you are not a doctor, it can be useful to ask a doctor capable of drawing up medical certificates to take part.
Topic 2: Notification and professional confidentiality

**Timeframe:** 10 minutes

**Aims and objectives:**
- Knowing current legislation: criminal law and medical deontology
- to give participants a grounding in legislation on domestic violence so that they will be able to inform patients, understand the deontological and legal context of the medical measures, and be aware of the contexts and situations of giving notification of violence.

**Methods:**
Full group session with an external speaker. This may be a legal advisor capable of setting out and explaining the legal and deontological aspects of domestic violence and how to deal with them.

**Material:**
The speaker chooses his or her own presentation method: PowerPoint, possibly documentation.

**Notes for trainer:**
The idea is not that the health professional should be an expert on current legislation, but that he or she should have basic knowledge.