## End of Life Issues

### Indian Perspective

<table>
<thead>
<tr>
<th>Dr K K Aggarwal</th>
<th>Dr Ketan Desai</th>
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<tr>
<td>Padma Shri &amp; Dr B C Roy National Awardee</td>
<td>Dr Ajay Kumar</td>
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<td>National President, Indian Medical Association</td>
<td>Dr Vinay Aggarwal</td>
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<td>Vice-President, CMAAO</td>
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<th>Dr R N Tandon</th>
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<tr>
<td>Honorary Secretary General</td>
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<td>Indian Medical Association</td>
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When is End of Life Care applicable?

Whenever, the treating physicians or group of physicians feel that the medical care is FUTILE, then End of Life Care management can be discussed and initiated.
Physician Assisted Suicide
Passive Euthanasia
Active Euthanasia
Do not Resuscitate
Do not Intubate
Dying with Dignity
End of Life Experiences
Life after Death
Brain Death
Resuscitation and revival
Advanced Directives
Will
Indian Medical Association

Indian Laws

- MCI Ethics Regulations
- Article 21 of the Constitution
- Consensus statements
- Transplantation of Human Organ Act and Rules
- Supreme Court Decision
- Law Commission Recommendation
- IMA Views
The Constitution of India, Article 21, provides ‘Protection of Life’ and ‘Personal Liberty’.

It states that “no person shall be deprived of his life or personal liberty except according to procedure established by law.”

It assures the right to live with human dignity.

Even a dead body has a right to dignity.

Right to die in peaceful and dignified manner is the rule.
Right of “not to live” or right to death has been discussed in P. Rathinam v. Union of India, JT 1994(3) SC 392).
In this judgment, while accepting right to die, euthanasia was not considered viable and was not permitted.

(Gian Kaur v. State of Punjab, JT 1996 (3) SC 339; C.A. Thomas Master vs Union of India, Kerala HC, 2000 Cri LJ 3729)
That right-to-life as enshrined in constitution article 21 does not confer right-to-death.

PIL, Rajasthan High court two MISHRA et al. END-OF-LIFE CARE CONSENSUS STATEMENT INDIAN PEDIATRICS 4 AUGUST 24, 2017 [E-PUB AHEAD OF PRINT] judge bench upheld the PIL and held the Jain religious practice of “Santhara or Sallekhana — a practice of deliberate starvation to death” as unconstitutional, and to treat it as suicide punishable under section 309

Vinoba Bhave 1975, Starvation to death
Physician Assisted Suicide

BIG NO
6.7 **Euthanasia**: Practicing euthanasia shall constitute unethical conduct.

However on specific occasion, the question of withdrawing supporting devices to sustain cardio-pulmonary function even after brain death, shall be decided only by a team of doctors and not merely by the treating physician alone. A team of doctors shall declare withdrawal of support system. Such team shall consist of the doctor in charge of the patient, Chief Medical Officer / Medical Officer in charge of the hospital and a doctor nominated by the in-charge of the hospital from the hospital staff or in accordance with the provisions of the Transplantation of Human Organ Act, 1994.

**Discussion:**

[Consent for Ventilator and life support devises in non emergent situations
Once you put a device you can not withdraw without consent
But patient has a choice to shift to other AYUSH therapies]
“126. There is no statutory provision in our country as to the legal procedure for withdrawing life support to a person in PVS or who is otherwise incompetent to take a decision in this connection.

We agree with Mr. Andhyarujina that passive euthanasia should be permitted in our country in certain situations, and we disagree with the learned Attorney General that it should never be permitted. Hence, following the technique used in Vishakha’s case (supra), we are laying down the law in this connection which will continue to be the law until Parliament makes a law on the subject.

(i) A decision has to be taken to discontinue life support either by the parents of the spouse or other close relatives, or in the absence of any of them, such a decision can be taken even by a person or a body of persons acting as a next friend. It can also be taken by the doctors attending the patient. However, the decision should be taken bona fide in the best interest of the patient.”
127. In our opinion, if we leave it solely to the patient's relatives or to the doctors or next friend to decide whether to withdraw the life support of an incompetent person there is always a risk in our country that this may be misused by some unscrupulous persons who wish to inherit or otherwise grab the property of the patient. Considering the low ethical levels prevailing in our society today and the rampant commercialization and corruption, we cannot rule out the possibility that unscrupulous persons with the help of some unscrupulous doctors may fabricate material to show that it is a terminal case with no chance of recovery. There are doctors and doctors. While many doctors are upright, there are others who can do anything for money (see George Bernard Shaw's play 'The Doctors Dilemma'). The commercialization of our society has crossed all limits. Hence we have to guard against the potential of misuse (see Robin Cook's novel 'Coma'). In our opinion, while giving great weight to the wishes of the parents, spouse, or other close relatives or next friend of the incompetent patient and also giving due weight to the opinion of the attending doctors, we cannot leave it entirely to their discretion whether to discontinue the life support or not. We agree with the decision of the Lord Keith in Airedale's case (supra) that the approval of the High Court should be taken in this connection.

This is in the interest of the protection of the patient, protection of the doctors, relative and next friend, and for reassurance of the patient's family as well as the public. This is also in consonance with the doctrine of parens patriae which is a well known principle of law.
133. In our opinion, it is the High Court under Article 226 of the Constitution which can grant approval for withdrawal of life support to such an incompetent person. Article 226(1) of the Constitution states:

"Notwithstanding anything in article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose".

134. A bare perusal of the above provisions shows that the High Court under Article 226 of the Constitution is not only entitled to issue writs, but is also entitled to issue directions or orders.
Brain Stem Death
Clinical Death
Cardiac Death
Atharveda,
Prashna Upanishad,
Chandogya Upanishad
Organ Transplant Rules 2014: Panel of experts for brain-stem death certification.—For the purpose of certifying the brain-stem death, the Appropriate Authority shall maintain a panel of experts, in accordance with the provisions of the Act, to ensure efficient functioning of the Board of Medical Experts and it remains fully operational.

Members of Brain Stem Death (BSD) Certifying Board

1. Medical Administrator Incharge of the hospital
2. Authorised specialist.
3. Neurologist/Neuro-Surgeon
4. Medical Officer treating the Patient.
Where Neurologist/Neurosurgeon is not available, then any Surgeon or Physician and Anaesthetist or Intensivist, nominated by Medical Administrator Incharge of the hospital shall be the member of the board of medical experts for brain-stem death certification.

The minimum time interval between the first and second testing will be six hours in adults. In case of children 6 to 12 years of age, 1 to 5 years of age and infants, the time interval shall increase depending on the opinion of the above BSD experts.

The Authorised specialist (S.No. 2) & Neurologist/Neuro-Surgeon (S.No. 3) will be co-opted by the Administrator Incharge of the hospital from the Panel of experts (Nominated by the hospital and approved by the Appropriate Authority).
"14.2 A competent adult patient has the right to insist that there should be no invasive medical treatment by way of artificial life sustaining measures / treatment and such decision is binding on the doctors / hospital attending on such patient provided that the doctor is satisfied that the patient has taken an ‘informed decision’ based on free exercise of his or her will. The same rule will apply to a minor above 16 years of age who has expressed his or her wish not to have such treatment provided the consent has been given by the major spouse and one of the parents of such minor patient.

14.3 As regards an incompetent patient such as a person in irreversible coma or in Persistent Vegetative State and a competent patient who has not taken an ‘informed decision’, the doctor’s or relatives’ decision to withhold or withdraw the medical treatment is not final. The relatives, next friend, or the doctors concerned / hospital management shall get the clearance from the High Court for withdrawing or withholding the life sustaining treatment
14.4 The High Court shall take a decision after obtaining the opinion of a panel of three medical experts and after ascertaining the wishes of the relatives of the patient. The High Court, as parens patriae will take an appropriate decision having regard to the best interests of the patient.

14.5 Provisions are introduced for protection of medical practitioners and others who act according to the wishes of the competent patient or the order of the High Court from criminal or civil action. Further, a competent patient (who is terminally ill) refusing medical treatment shall not be deemed to be guilty of any offence under any law.

Also, THE MEDICAL TREATMENT OF TERMINALLY-ILL PATIENTS (PROTECTION OF PATIENTS AND MEDICAL PRACTITIONERS) BILL, a Bill to provide for the protection of patients and medical practitioners from liability in the context of withholding or withdrawing medical treatment including life support systems from patients who are terminally-ill is pending before the Parliament for approval.

Further, the Constitution Bench of 5 Judges of Supreme Court have reserved their judgment on the issue with regard to passive euthanasia and living will in the Writ Petition (Civil) No. 215/2005 titled as "Common Cause versus Union of India".
DNR or end of life care should not be activated till consensus is achieved between treating team and next of kin.

Consensus within health care team (including nurses) needs to be achieved before discussion with family members.

Discussion should involve the family members – next of kin and other persons who can influence decisions.

If family members want to include their family physician or a prominent person from community, it should be encouraged. Similarly if family members want a particular member of treating team, he/she should be included.
INDIAN MEDICAL ASSOCIATION

End-of-Life Care: Consensus Statement
by Indian Academy of Paediatrics

• Treating doctors should have all the facts of the case including investigations available with them before discussion

• Unit in-charge or treating doctor should be responsible for achieving consensus and should initiate the discussion

• After presenting the facts of the cases, family members should be encouraged to ask questions and clear doubts (if any)

• At the end of discussion, a summary of the discussion should be prepared and signed by the next of kin and the unit in-charge or treating doctors

• DNR orders should be reviewed in the event of unexpected improvement or on request of next of kin. Same should be documented

• DNR orders remain valid during transport.
The Medical Treatment of Terminally ill Patients (Protection of Patients and Medical Practitioners) Bill

- A bill to provide for the protection of the patients and medical practitioners from liability in the context of withholding or withdrawing medical treatment including life-support systems from patients who are terminally ill.

- Every competent patient including a minor above the age of 16 years, who is terminally ill, has the right to take a decision and express the desire to the medical practitioner attending him/her for withholding or withdrawing medical treatment to herself/himself and allow nature to take its own course for starting or continuing medical treatment to herself/himself.
  - In case of a minor above 16 years of age, the consent should also be given by the major spouse and parents.

- Such a decision is binding on the medical practitioner provided the doctor feels the terminally ill patient is making an informed choice, and after the patient has communicated the same to his/her spouse and parents.

- The DGHS, Central Government and Director of Medical Services in each state shall prepare a panel of medical experts for the purpose of this Act.
The medical practitioner shall maintain a record of the personal details, nature of illness, the decision of the patient and his opinion whether it would be in the best interest of the patient to withdraw or withhold the treatment.

The said medical practitioner as well as patient would be protected from any criminal or civil liability.

In case of an incompetent patient or a competent patient who has not taken an informed decision, the case has to be filed in that area's High Court by the patient's relative, friend or the medical practitioner. In such cases, the High Court is expected to pass a judgment within a month.

Advance Medical Directive or a living will (which means a directive given by a person that he/she shall or shall not be given medical treatment in future when he/she becomes terminally ill) shall be void and shall not be binding on any medical practitioner.

The Medical Council of India may prepare and issue guidelines from time to time to guide the medical practitioners in the matter of withholding or withdrawing medical treatment to competent or incompetent patients suffering from terminal illnesses.

The Bill explicitly excludes active euthanasia from its purview.
1. Do Not Resuscitate (DNR): It does not involve withdrawing life support where a patient is already on ventilator or inotropes. It also does not involve discontinuing routine care like oxygen, nutrition, fluids (oral intravenous). In India, so far we do not have a clear legal guideline and accepted method of documentation of DNR.

2. ‘withhold LST (Life Sustaining Treatment Measures)

3. ‘withdraw LST’
4. LST: ventilation, central line placement and renal replacement therapy (all requires consent to be initiated). Refusal of such consent should not result in dilution of basic care to the patient and judgmental statements are not made by the staff working in the unit, which can result in feeling of guilt.

5. Withdrawing life sustaining treatment is more difficult.

6. The withdrawal of support should never be done to facilitate use of equipment for another patient who may be potentially salvagable.

[Indian Society of Critical Care Medicine and Indian Association of Palliative Care and Consensus Statement by Indian Academy of Paediatrics]
• A policy statement that facilitates a dignified dying process for those who are diagnosed to be at their end of life.

• Documented Evidence: Evidence of discussion, decision, communication, care provided etc as documented in the medical case records.

• Goals of Care: Discussion, decision and documentation of further goals of care with respect to site and nature of care.

• EOLC Management Plan: it comprises of consensus EOLC decision by health care providers, EOLC communication, EOLC shared decision making, symptom control, managing the dying process, death and after death care including bereavement.
Symptom control

Control of end of life symptoms such as pain, dyspnea, delirium, respiratory secretions, dryness of mouth
Any area within the hospital
Peaceful environment for the person to die
Family members to be around can offer End of Life Care process.
Religious clerics to attend and practice any rituals.
• Patient Autonomy: Means the Right to Self determination, where the informed patient has a right to choose the manner of his treatment.

• Beneficence: it implies acting in what is (or judged to be) in patient’s best interest.

• Non-malfeasance: Means to do no harm, to impose no unnecessary or unacceptable burden upon the patient

• Distributive Justice: Means that patients in similar circumstances should receive similar care
• **Bhagavad Gita:** The best time for death is Uttarayana (14th Jan to 14th July)

The gist of Lord Krishna’s teaching in Chapter eight is

1. Whatever you think throughout your life will be your thought at the time of death.
2. Whatever is the state of mind at the time of death will be the atmosphere you will get in the rebirth.

The mind gets purified when near fire (Yagna), illumination (light), daytime (sunlight), fortnight before the full moon or *purnima* and Uttarayana (the period between 14th Jan to 14th July when the sun moves northwards). These situations and periods are the time for spontaneous positive thinking.

If the above is not possible thinking of God or Chanting AUM at the time of death can also take one to positive thinking.
This is the reason why a dying person is assisted by shifting to a well illuminated room; Yagna pooja is offered; diya is lit or chanting of bhajans is done.

Uttarayana means positive and healthy state of mind and dakshinayana means a depressed state of mind.

Performing and attending to Yagna, sitting in well illuminated light or exposing oneself to the day sunlight can be an adjunct to depression treatment and building positive thoughts.

During the first fortnight of full moon and during uttarayana, the psychotherapy and counseling invariable will work better and the requirement of drugs may get reduced.
• Chhandogya Upanishad: Death is not instantaneous but a process.
• The first to stop functioning are the five Karmendriyas. They are elimination (payu or excretory organ), reproduction (upastha or sexual organs), movement (pada or the locomotor organ), act of grasping (pani or the organ of action the hands) and speech (vak or the speech organ).
• As per Upanishad, when these five Karmendriyas stop functioning, it is called 'Vakvriti'. They stop functioning in sequence and speech is the last function to go.
• In medical science, the first question we ask is "can the person speak?". If yes, the process of death has not started yet.
• The next to go are the five sense organs called Jnanendriyas. They are smell (ghrana or nose), taste (rasana or tongue), vision (caksu or eyes), touch (tvak or skin) and ability to hear (srota or ears). The Jnanendriyas also stop functioning in sequence and the last to go is hearing.
• In medical sciences, the next question to be asked is whether the person can hear or not.
• Once the ability to hear has gone, the next to go is 'Manas" which includes mind, Intellect, Memory & Ego.

• When both the Jnanendriyas & Manas stop functioning, the situation is called 'Manovriti'. In this phase, the person cannot speak, hear and think.

• Once the vakvriti and manovriti stop functioning, the next to stop functioning are the five Pranas. Prana Vayu (the upward moving force of the chest region responsible for respiration); Apana Vayu (the downward moving energy of the sacral region connected with the functions of excretion and reproduction), Samana Vayu (the laterally moving energy helping in digestive functions); Udana Vayu (the energy that compress and causes deglutition and separates physical body from astral) and finally the Vyana Vayu (the energy moving in circles in the entire body and responsible for circulatory system).

• These 'Vayus' too cease functioning with the 'Vyana Vayu' being the last to cease. Once all five Vayus cease to function it is called "Pranavriti".
Therefore, medically the third question to be asked “is the patient breathing?” and if yes, is the circulation on.

The above sequence also explains the difference between the “brain stem death” and “death”. In brain stem death the Prana Vayu cease to function but other vayus continue to function.

Once the Prana stops functioning, the Pranavriti merges with Tej (Tejas, lose control of temperature regulation) and these merge in Sat (Sath). With that life comes to an end.

The “Sat” may be taken as a state when the consciousness or the life force leaves the body.

At any stage, before “Tejas” merges with 'Sat" death is reversible.

In Ayurveda there are three terms called Prana, Tejas (Tejesvi Bhava) and Ojhas (Ojhasvi Bhav). They represent the life forces and are consistent with the above observations.

The nearest equivalent to Tejas is control of metabolism and temperature regulation. Till the tejas is under control, life force cannot cease to function.
Medically or naturally if hypothermia develops, Pranavriti cannot merge with the Tejas, the life force can be kept preserved for a long duration. A person can be revived later by bringing back the body to a normal temperature and with proper resuscitation. In Allopathy it is called therapeutic hypothermia.

A person whose functioning of Karmendriyas, Jnanendriyas, Mans and Prana have stopped and if put in a state of therapeutic hypothermia, can be revived later after re-warming and cardio pulmonary resuscitation.

The above sequential process also can explain the “near death” experiences. They depend at which stage the person was revived.

For example, if a person gets revived at a stage of vakvriti he or she may recall experiences related to the motor organs. If the person gets revived at a stage of Manovriti, he or she may recall experiences of both motor and sensory organs as well as experiences related to mind, intellect, memory and ego and if the patient gets revived at the stage of Pranavriti, he or she may recall the near death experiences linked to motor organs, sensory organs and breathing.

The process of death therefore is Vakvriti merging into Manovriti, Manovriti merging into Pranavriti and Pranavriti taking the heat of the body (Tejas) and merging into 'Sat' and the 'Sat' merges into “Brahamand” in the atmosphere. [Chandogya Upanishad 6.15.1]
Samadhi is a state of oneness in body mind and the soul. The process of Samadhi also involves the above process starting with control of Karmendriyas, then Jnanendriyas, followed by control of the mind (manas), then the control of prana and finally the control on metabolism (tejas) and lowering of body temperature. At this state the life force can be preserved for a long period and the person can revive back even after months.

Samadhi has been practices by Rishi Munis in Vedic literature but in natural environments on the hills.
• Motor organs, sensory organs, Prana, (the life force) and all formed by the food we consume.

• When Ghee & oil in the food gets digested, it gets divided into three parts: The “crude” part makes bone, the middle part makes bone marrow and the subtle part makes the Karmendriyas (Vak).

• When the non fat part of the food is digested, it too gets divided into three parts: The “crude” part make the feces; the “middle part” Manas and the “subtle” part Jnanendriyas.

• When the liquid part of the food is digested, it also gets divided into three parts. The “crude” part gets converted into urine, the “middle” part into blood and “subtle” into Prana.

• This explains the process of fasting. A person can live without air for three minutes, without water for three days and without food for three weeks. The first effect of fasting unto death is cessation of speech then hearing and then the prana.

• The above is true in non Samadhi state. In the state of Samadhi your metabolism may be so slow that you may live longer without food. Even today many Jain Munis love without food for months.
As per Upanishads the 'Sat' or the life force, called consciousness remain in the atmosphere.

After a variable period of time it will fall on to the earth through the rain drops when (the RNA & DNA) gets taken up by the food grains. Therefore, the term “food is Brahman”.

When the appropriate father & mother eats that food, the life force enters in the ova & the sperm and from there the new life begins. (Soul never dies: Bhagavad Gita 2.20]

This process of new birth is just the reverse of the process of death. In the process of death, the first to go is Vakriti or speech and in the process of birth the last to come is Vak or speech.

This explanation, though is difficult to explain in terms of modern science.
The science of Karma:

• Sanchita Karma, Prarabdha Karma Agami Karma.

• Every action results in a reaction. Action & the resultant reaction together is called a Karma. The end result can be positive or negative, depending upon the resultant reaction.

• Net negative Karmas get accumulated and needs to be neutralized either in this birth or in the next birth. At the time of death, all the resultant accumulated negative Karmas, which remains to be neutralized, constitute Sanchita Karmas.

• If the Sanchita Karmas has a high burden, then some of them, as an installment, gets constituted as Prarabdha Karmas which one needs to neutralize in the coming birth.

• Therefore, when a person is born, he is born with pre defined Prarabdha Karmas. These need to be neutralized and faced in this life and the left over Sanchita Karmas to be faced in subsequent birth unless some of them are neutralized by this birth by good positive Agami Karmas.

• Agami Karmas are day-to-day Karmas of this birth. If the net result of positive & negative Agami Karma is positive, they can neutralize the Sanchita Karma that form the basis of Vedic saying and recommendation of keep doing the good job. It also resolves the myth that if one’s destiny is pre-defined in terms of Prarabdha Karma, why should one do good jobs.
According to Buddhism, one is born to suffer as per the number of Prarabdha Karma at the time of birth. Buddhist Philosophy says that suffering exist, there is a reason for that suffering and one can live and make modifications to enjoy that suffering.

The purpose of life, therefore, should be to live our Agami Karma in such a way that they not only neutralize our Prarabdha Karma, but also the Sanchita Karma.

According to Bhagavad Gita, whatever you think throughout your life, will be your thinking at the time of death and whatever is the thinking at the time of your death, will be the type of womb you will get in the next birth [Bhagavad Gita 8.6, 8.7].

As per Prasna Upanishad [3] whatever one's thinking, with that one enters into prana. Prana joined with fire (udana), together with the soul, leads to whatever world has been fashioned by thought.

The thinking at the time of death decides which Karmas will form the installment of Prarabdha Karma. Therefore, thoughts at the time of death decide the destiny of birth in the next generations.
So as per Bhagavad Gita, one should be in a positive state of mind at the time of death. If spontaneous positive thinking is not possible, then every effort should be made to convert negative into positive thinking.

According to Bhagavad Gita, the best time to die is Uttarayana, before full moon in a day light or in an atmosphere of Yagna. The bad time to die is Dakshinayana, before Amawasya, in the night or in the dark.

To convert bad into good timings, the process of death should take place at home, in a lighted environment (artificial Dias, in the vicinity of Vedic hymns) in the company of positive thinking people. In that situation, the chosen Prarabdha Karmas out of the Sanchita Karmas will be positive and the life force with positive aura will enter into the womb of parents who are positive. In this way, even if you are born to suffer, you will suffer and yet not suffer.
## INDIAN MEDICAL ASSOCIATION Policy

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<th>Sl.No</th>
<th>Items</th>
<th>Compliance</th>
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<tbody>
<tr>
<td>A1.</td>
<td>Presence of a hospital End of Life Care (EOLC) policy</td>
<td>Yes o No o</td>
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<td>A2.</td>
<td>Presence of a physical space in the hospital where necessary privacy required for the dying can be provided</td>
<td>Yes o No o</td>
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<td>A3.</td>
<td>Presence of essential medications in the hospital required for pain and symptom control</td>
<td>Yes o No o</td>
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<td>A4.</td>
<td>Presence of trained health care providers in EOLC in the hospital who are able to provide EOLC</td>
<td>Yes o No o</td>
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<td>A5.</td>
<td>Presence of access to religious clerics, rituals and bereavement care support if desired</td>
<td>Yes o No o</td>
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## INDIAN MEDICAL ASSOCIATION Process

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<th>Sl.No</th>
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<tr>
<td>B1.</td>
<td>Documented evidence to suggest that patient / family had knowledge of diagnosis and prognosis of the disease</td>
<td>Yes o No o</td>
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<td>B2.</td>
<td>Documented evidence of consensus among treating team about medical futility and documentation of the Same</td>
<td>Yes o No o</td>
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<tr>
<td>B3.</td>
<td>Documented evidence of communication of medical futility and available modalities of EOLC</td>
<td>Yes o No o</td>
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<tr>
<td>B4.</td>
<td>Documented evidence of goals of care, documentation of resuscitation status, Allowing Natural Death(AND) and EOLC management plan</td>
<td>Yes o No o</td>
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<td>B5.</td>
<td>Documented evidence that end of life care symptoms were identified and managed</td>
<td>Yes o No o</td>
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<td>B6.</td>
<td>If patient is discharged, documented evidence of continuity of end of life care in the discharge summary</td>
<td>Yes o No o</td>
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