PRL. DISTRICT COURT : WEST GODAVARI : ELURU : Dt. 11.03.2024

Communicated the Hon'ble High Court's ROC.No.105/SO/2023, Dt.27.02.2024, CIRCULAR No.3/2024, to all the Judicial Officers working in the unit of West Godavari District.

PRL. DISTRICT JUDGE,
W.G., ELURU.

Copy to:

1. All the Judicial Officers working in the Unit of West Godavari, for information.
2. The Secretary, DLSA, Eluru.
3. The Chairman, PLAPUS.
4. The Incharge System Officer (eCourts project), Principal District Court, Eluru, with a direction to place the same in District Court's website and send **emails** to all the Officers.

DIS NO. 1663
DATE 11/3/24

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

Roc.No.105/SO/2023 **Dated: 24.02.2024**

06 MAR 2024

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6/3/24

CIRCULAR No. 3/2024

Sub: High Court of Andhra Pradesh – Order dated 24.01.2023 of the Hon'ble Supreme Court of India passed in Miscellaneous Application No.1699 of 2019 in Writ Petition (Civil) No. 215 of 2005 *(In Common Cause (A Regd. Society) versus Union of India)* –– Passive Euthanasia – Modified guidelines issued – Instructions for implementation of the same – Reg.

Ref: 1. Letter dated 03.02.2023 from the Hon'ble Supreme Court of India along with copy of Order dated 24.01.2023 of the Hon'ble Supreme Court of India passed in Miscellaneous Application No.1699 of 2019 in Writ Petition (Civil) No. 215 of 2005.

2. High Court's letter in ROC.No.105/SO/2023, dated 03.03.2023.

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In continuation of the letter in the reference 2nd cited, all the Unit Heads in Andhra Pradesh, are hereby informed that the Hon'ble Supreme Court of India, in it's Judgment dated 09.03.2018 passed in Writ Petition (Civil) No. 215 of 2005, had dealt with Passive Euthanasia and formulated procedure for effectuating voluntary and non-voluntary Passive Euthanasia and laid down certain safeguards and guidelines.

The Unit Heads are further informed that the Hon'ble Supreme Court in it's Order dated 24.01.2023 passed in Miscellaneous Application No.1699 of 2019 in Writ Petition (Civil) No. 215 of 2005, having considered the difficulties which are being encountered by a large number of doctors, felt it necessary to revisit the directions issued earlier in it's Judgment, dated 09.03.2018 in Writ Petition (Civil) No. 215 of 2015 to put in place a mechanism to effectively carry out the object of the principles laid down by the Hon'ble Supreme Court with regard to voluntary and non-voluntary Passive Euthanasia and "modified/deleted" earlier directions, which read as under:

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Para	Existing Guidelines	Modifications
Para 198.2.5	It should specify the name of a guardian or close relative who, in the event of the executor becoming incapable of taking decision at the relevant time, will be authorized to give consent to refuse or withdraw medical treatment in a manner consistent with the Advance Directive.	It should specify the name of a guardian (s) or close relative (s) who, in the event of the executor becoming incapable of taking decision at the relevant time, will be authorized to give consent to refuse or withdraw medical treatment in a manner consistent with the Advance Directive.
Para 198.3.1	The document should be signed by the executor in the presence of two attesting witnesses, preferably independent, and countersigned by the jurisdictional Judicial Magistrate of First Class (JMFC) so designated by the District Judge concerned.	The document should be signed by the executor in the presence of two attesting witnesses, preferably independent, *and attested before a notary or Gazetted Officer.*
Para 198.3.2	The witnesses and the jurisdictional JMFC shall record their satisfaction that the document has been executed voluntarily and without any coercion or inducement or compulsion and with full understanding of all the relevant information and consequences.	The witnesses and the notary or Gazetted Officer shall record their satisfaction that the document has been executed voluntarily and without any coercion or inducement or compulsion and with full understanding of all the relevant information and consequences.
Para 198.3.3	The JMFC shall preserve one copy of the document in his office, in addition to keeping it in digital format.	Deleted.
Para 198.3.4	The JMFC shall forward one copy of the document to the Registry of the jurisdictional District Court for being preserved. Additionally, the Registry of the District Judge shall retain the document in digital format.	Deleted.
Para 198.3.5	The JMFC shall cause to inform the immediate family members of the executor, if not present at the time of execution, and make them aware about the execution of the document.	The executor shall inform, and hand over a copy of the Advance copy of the Directive to the person or persons named in paragraph 198.2.5, as well as to the family physician, if any.

Para	Existing Guidelines	Modifications
Para 198.3.6	A copy shall be handed over to the competent officer of the local Government or the Municipal Corporation or Municipality or Panchayat, as the case may be. The aforesaid authorities shall nominate a competent official in that regard who shall be the custodian of the said document.	A copy shall be handed over to the competent officer of the local Government or the Municipal Corporation or Municipality or Panchayat, as the case may be. The aforesaid authorities shall nominate a competent official in that regard who shall be the custodian of the said document. The executor may also choose to incorporate their Advance Directive as a part of the digital health records, if any.
Para 198.3.7	The JMFC shall cause to hand over copy of the Advance Directive to the family physician, if any.	Deleted.
Para 198.4.1	In the event the executor becomes terminally ill and is undergoing prolonged medical treatment with no hope of recovery and cure of the ailment, the treating physician, when made aware about the Advance Directive, shall ascertain the genuineness and authenticity thereof from the jurisdictional JMFC before acting upon the same.	In the event the executor becomes terminally ill and is undergoing prolonged medical treatment with no hope of recovery and cure of the aliment, and does not have decision-making capacity, the treating physician, when made aware about the Advance Directive, shall ascertain the genuineness and authenticity thereof with reference to the existing digital health records of the patient, if any or from the custodian of the document referred to in Paragraph 198.3.6 of this judgment.
Para 198.4.2	The instructions in the document must be given due weight by the doctors. However, it should be given effect to only after being fully satisfied that the executor is terminally ill and is undergoing prolonged treatment or is surviving on life support and that the illness of the executor is incurable or there is no hope of him/her being cured.	No change

Para	Existing Guidelines	Modifications
Para 198.4.3	If the physician treating the patient (executor of the document) is satisfied that the instructions given in the document need to be acted upon, he shall inform the executor or his guardian/close relative, as the case may be, about the nature of illness, the availability of medical care and consequences of alternative forms of treatment and the consequences of remaining untreated. He must also ensure that he beliefs on reasonable grounds that the person in question understands the information provided, has cogitated over the options and has come to a firm view that the option of withdrawal or refusal of medical treatment is the best choice.	If the physician treating the patient (executor of the document) is satisfied that the instructions given in the document need to be acted upon, he shall inform the person or persons named in the Advance Directive, as the case may be, about the nature of illness, the availability of medical care consequences of alternative forms treatment and the consequences of remaining untreated. He must also ensure that he believes on reasonable grounds that the person in question understands the information provided, has cogitated over the options and has come to a firm view that the option of withdrawal or refusal of medical treatment is best choice.
Para 198.4.4	The physician/hospital where the executor has been admitted for medical treatment shall then constitute a Medical Board consisting of the Head of the treating department and at least three experts from the fields of general medicine, cardiology, neurology, psychiatry, or oncology with experience in critical care and with overall standing in the medical profession of at least twenty years who, in turn, shall visit the patient in the presence of his guardian/ close relative and form an opinion whether to certify or not to certify carrying out the instructions of withdrawal or refusal of further medical treatment. This decision shall be regarded as a preliminary opinion.	The hospital where the executor has been admitted for medical treatment shall then constitute a Primary Medical Board consisting of the treating physician and at least two subject experts of the concerned specialty with at least five years experience, who, in turn, shall visit the patient in the presence of his guardian/close relative and form an opinion preferably within 48 hours of the case being referred to it whether to certify or not to certify carrying out the instructions of withdrawal or refusal of further medical treatment. This decision shall be regarded as a preliminary opinion.
Para 198.4.5	In the event the Hospital Medical Board certifies that the instructions contained in the Advance Directive ought to be carried out, the physician/hospital shall forthwith inform the jurisdictional	In the event the Primary Medical Board certifies that the instructions contained in the Advance Directive ought to be carried out, the hospital shall then immediately

Para	Existing Guidelines	Modifications
	Collector about the proposal. The jurisdictional Collector shall then immediately constitute a Medical Board comprising the Chief District Medical officer of the district concerned as the Chairman and three expert doctors from the fields of general medicine, cardiology, neurology, nephrology, psychiatry or oncology with experience in critical care and with overall standing in the medical profession of at least twenty years (who were not members of the previous Medical Board of the hospital). They shall jointly visit the hospital where the patient is admitted and if they concur with the initial decision of the Medical Board of the hospital, they may endorse the certificate to carry out the instructions given in the Advance Directive.	constitute a Secondary Medical Board comprising one registered medical practitioner nominated by the Chief Medical Officer of the District and at least two subject experts with at least five years experience of the concerned specialty who were not part of the Primary Medical Board. They shall visit the hospital where the patient is admitted and if they concur with the initial decision of the Primary Medical Board of the hospital , they may endorse the certificate to carry out the instructions given in the Advance Directive. The Secondary Medical Board shall provide it's opinion preferably within 48 hours of the case being referred to it.
Para 198.4.6	The Board Constituted by the Collector must beforehand ascertain the wishes of the executor if he is in position to communicate and is capable of understanding the consequences of withdrawal of medical treatment. In the event the executor is incapable of taking decision or develops impaired decision making capacity, then the consent of the guardian nominated by the executor in the Advance Directive should be obtained regarding refusal or withdrawal of medical treatment to the executor to the extent of and consistent with the clear instructions given in the Advance Directive.	The secondary Board must beforehand ascertain the wishes of the executor if he is in a position to communicate and is capable of understand the consequences of withdrawal of medical treatment. In the event the executor is incapable of taking decision or develops impaired decision making capacity, then the consent of the person or persons nominated by the executor in the Advance Directive should be obtained regarding refusal or withdrawal of medical treatment to the executor to the extent of and consistent with the clear instructions given in the Advance Directive.
Para 198.4.7	The Chairman of the Medical Board nominated by the Collector, that is, the Chief District Medical Officer, shall convey the decision of the Board to the jurisdictional JMFC before giving effect	The hospital where the patient is admitted, shall convey the decision of the Primary and Secondary Medical Boards and the consent of the person or persons named in the

Para	Existing Guidelines	Modifications
	to the decision to withdraw the medical treatment administered to the executor. The JMFC shall visit the patient at the earliest and, after examining all aspects, authorize the implementation of the decision of the Board.	Advance Directive to the jurisdictional JMFC before giving effect to the decision to withdraw the medical treatment administered to the executor.
Para 198.4.8	It will be open to the executor to revoke the document at any stage before it is acted upon and implemented.	No change.
Para 198.5.1	If permission to withdraw medical treatment is refused by the Medical Board, it would be open to the executor of the Advance Directive or his family members or even the treating doctor or the hospital staff to approach the High Court by way of writ petition under Article 226 of the Constitution. If such application is filed before the High Court, the Chief Justice of the said High Court shall constitute a Division Bench to decide upon grant of approval or to refuse the same. The High Court will be free to constitute an independent committee consisting of three doctors from the fields of general medicine, cardiology, neurology, nephrology, psychiatry or oncology with experience in critical care and with overall standing in the medical profession of at least twenty years.	If permission to withdraw medical treatment is refused by the secondary Medical Board, it would be open to the person or persons named in the Advance Directive or even the treating doctor or the hospital staff to approach the High Court by way of writ petition under Article 226 of the Constitution. If such application is filed before the High Court, the Chief Justice of the said High Court shall constitute a Division Bench to decide upon grant of approval or to refuse the same. The High Court will be free to constitute an Independent committee consisting of three doctors from the fields of general medicine, cardiology, neurology, nephrology, psychiatry or oncology with experience in critical care and with overall standing in the medical profession of at least twenty years.
Para 198.5.2	The High court shall hear the application expeditiously after affording opportunity to the State Counsel. It would be open to the High Court to constitute Medical Board in terms of its order to examine the patient and submit report about the feasibility of acting upon the instructions contained in the Advance Directive.	No change.
Para 198.5.3	Needless to say that the High Court shall render its decision at the earliest	No change.

Para	Existing Guidelines	Modifications
	as such matters cannot brook any delay and it shall ascribe reasons specifically keeping in mind the principles of "best interests of the patient".	
Para 198.6.1	An individual may withdraw or alter the Advance Directive at any time when he/she has the capacity to do so and by following the same procedure as provided for recording of Advance Directive. Withdrawal or revocation of an Advance Directive must be in writing.	No change.
Para 198.6.2	An Advance Directive shall not be applicable to the treatment in question if there are reasonable grounds for believing that circumstance exist which the person making the directive did not anticipate at the time of the Advance Directive and which would have affected his decision had he anticipated them.	No change.
Para 198.6.3	If the Advance Directive is not clear and ambiguous, the Medical Boards concerned shall not give effect to the same and, in that event, the guidelines meant for patients without Advance Directive shall be made applicable.	No change.
Para 198.6.4	Where the Hospital Medical Board takes a decision not to follow an Advance Directive while treating a person, then it shall make an application to the Medical Board constituted by the Collector for consideration and appropriate direction on the Advance Directive.	Where the Primary Medical Board takes a decision not to follow a Advance Directive while treating a person, the person or persons named in the Advance Directive may request the hospital to refer the case to the Secondary Medical Board for consideration appropriate direction on the Advance Directive.
Para 199	It is necessary to make it clear that there will be cases where there is no	No change.

Para	Existing Guidelines	Modifications
	Advance Directive. The said class of persons cannot be alienated. In cases where there is no Advance Directive, the procedure and safeguards are to be same as applied to cases where Advance Directives are in existence and in addition there to, the following procedure shall be followed:	

Cases where there is No Advance Directive

Para	Existing Guidelines	Modifications
Para 199.1	In cases where the patient is terminally ill and undergoing prolonged treatment in respect of ailment which is incurable or where there is no hope of being cured, the physician may inform the hospital which, in turn, shall constitute a Hospital Medical Board in the manner indicated earlier. The Hospital Medical Board shall discuss with the family physician and the family members and record the minutes of the discussion in writing. During the discussion the family members shall be apprised of the pros and cons of withdrawal or refusal of further medical treatment to the patient and if they give consent in writing, then the Hospital Medical Board may certify the course of action to be taken. Their decision will be regarded as a preliminary opinion.	In cases where the patient is terminally ill and undergoing prolonged treatment in respect of ailment which is incurable or where there is no hope of being cured, the physician may inform the hospital, which, in turn, shall constitute a Primary Medical Board in the manner indicated earlier. The Primary Medical Board shall discuss with the family physician, if any and the patient's next of kin/next friend /guardian and record the minutes of the discussion in writing. During the discussion, the patient's next of kin/next friend/guardian shall be apprised of the pros and cons of withdrawal or refusal of further medical treatment to patient and if they give consent in writing, then the primary Medical Board may certify the course of action to be taken preferably within 48 hours of the case being referred to it. Their decision will be regarded as a preliminary opinion.
Para 199.2	In the event the Hospital Medical Board certifies the option of withdrawal	In the event the Primary Medical Board certifies the option of

Para	Existing Guidelines	Modifications
	or refusal of further medical treatment, the hospital shall immediately inform the jurisdictional Collector. The jurisdictional Collector shall then constitute a Medical Board comprising the Chief District Medical Officer as the Chairman and three experts from the fields of general medicine, cardiology, neurology, nephrology, psychiatry or oncology with experience in critical care and with overall standing in the medical profession of at least twenty years. The Medical Board constituted by the Collector shall visit the hospital for physical examination of the patient and, after studying the medical papers, may concur with the opinion of the Hospital Medical Board. In that event, intimation shall be given by the Chairman of the Collector nominated Medical Board to the JMFC and the family members of the patient.	withdrawal or refusal of further medical treatment, the hospital shall then constitute a Secondary Medical Board comprising in the manner indicated hereinbefore. The Secondary Medical Board shall visit the hospital for physical examination of the patient and, after studying the medical papers, may concur with the opinion of the Primary Medical Board. In that event, intimation shall be given by the hospital to the JMFC and the next of kin/next friend/ guardian of the patient preferably within 48 hours of the case being referred to it.
Para 199.3	The JMFC shall visit the patient at the earliest and verify the medical reports, examine the condition of the patient, discuss with the family members of the patient and, if satisfied in all respects, may endorse the decision of the Collector nominated Medical Board to withdraw or refuse further medical treatment to the terminally-ill patient.	Deleted.
Para 199.4	There may be cases where the Board may not take a decision to the effect of withdrawing medical treatment of the patient or the Collector nominated Medical Board may not concur with the opinion of the hospital Medical Board. In such a situation, the nominee of the patient or the family member or the treating doctor or the hospital staff can seek permission from the High Court to withdraw life support by way of writ petition under Article 226 of the	There may be cases where the Primary Medical Board may not take a decision to the effect of withdrawing medical treatment of the patient or the Secondary Medical Board may not concur with the opinion of the Primary Medical Board. In such a situation, the nominee of the patient or the family member or the treating doctor or the hospital staff can

Para	Existing Guidelines	Modifications
	Constitution in which case the Chief Justice of the said High Court shall constitute a Division Bench which shall decide to grant approval or not. The High Court may constitute an independent committee to depute three doctors from the fields of general medicine, cardiology, neurology, nephrology, psychiatry or oncology with experience in critical care and with overall standing in the medical profession of at least twenty years after consulting the competent medical practitioners. It shall also afford an opportunity to the State counsel. The High Court in such cases shall render its decision at the earliest since such matters cannot brook any delay. Needless to say, the High Court shall ascribe reasons specifically keeping in mind the principle of "best interests of the patient".	seek permission from the High Court to withdraw life support by way of writ petition under Article 226 of the constitution in which case the Chief Justice of the said High Court constitute a Division Bench which shall decide to grant approval or not. The High Court may constitute an independent committee to depute three doctors from the fields of general medicine, cardiology, neurology, nephrology, psychiatry or oncology with experience in critical care and with overall standing in the medical profession of at least twenty years after consulting the competent medical practitioners. It shall also afford an opportunity to the State Counsel. The High Court in such cases shall render its decision at the earliest since such matters cannot brook any delay. Needless to say, the High Court shall ascribe reasons specifically keeping in mind the principle of "best interests of the patient".
Para 200	Having said this, we think it appropriate to cover a vital aspect to the effect the life support is withdrawn, the same shall also be intimated by the Magistrate to the High Court. It shall be kept in a digital format by the Registry of the High Court apart from keeping the hard copy which shall be destroyed after the expiry of three years from the death of the patient.	No change.

The High Court vide letter 2nd cited, communicated copy of Order dated 24.01.2023 of the Hon'ble Supreme Court of India, passed in Miscellaneous Application No. 1699 of 2019 in Writ Petition (Civil) No. 215 of 2005 *(In Common Cause (A Regd. Society) versus Union of India),* to all the Unit Heads instructing them to circulate the same among all the Judicial Officers in the State.

Therefore, as directed, all the Jurisdictional Magistrates are hereby directed to adhere scrupulously to the revised directions issued supra by the Hon'ble Supreme Court of India.

Y. Lakshmana Rao
27/2/24
REGISTRAR GENERAL

To

1. The P.S. to the Hon'ble the Chief Justice (with a request to place before the circular before the Hon'ble the Chief Justice for his His Lordship's kind perusal).
2. The P.S. to the Hon'ble Judges of High Court of Andhra Pradesh (with a request to place the circular before the Hon'ble Judges for their Lordship's kind perusal).
3. All the Registrars, High Court of Andhra Pradesh.
4. The Registrar (Judicial), High Court of Andhra Pradesh, for communicating the circular among the Scrutiny Officers and Section Officers under his control.
5. The Registrar (I.T. cum Central Project Coordinator), High Court of Andhra Pradesh (with a request to instruct the concerned to place the circular in High Court's website).
6. The Director, Andhra Pradesh Judicial Academy, Mangalagiri, Guntur District.
7. The Member Secretary, Andhra Pradesh State Legal Services Authority, High Court Buildings, Nelapadu.
8. All the Principal District Judges/Unit Heads in Andhra Pradesh (with a request to communicate the same to all the Judicial Officers in the District).
9. The Chairman/Secretary, Bar Council of Andhra Pradesh (with a request to communicate the circular to all Bar Associations in Districts and Mofussil areas of Andhra Pradesh)
10. The President and Secretary, Advocates' Association, High Court of Andhra Pradesh, Amaravati, with a request that this Circular may be given wide publicity for the information of Members of the Association.
11. The Director, Mediation and Arbitration Centre, High Court of Andhra Pradesh.
12. The Secretary, Andhra Pradesh High Court Legal Services Committee, Amaravati.
13. All the Section Officers, High Court of Andhra Pradesh.