

News from here and there

New York orders calorie information on restaurant menus

Would posting calorie information at the time of food selection help combat obesity? The New York City Board of Health seems to think so. On 22 January 2008, it voted unanimously to require all city chain restaurants to post calorie data on their menus.

Chain restaurants already must make the calorie counts of their menu items publicly available, but beginning 31 March 2008, they will have to put the numbers on menu boards and menus. The change will affect restaurants with 15 or more outlets—roughly 10% of all city restaurants, according to a news release from the city's health department.

The Department of Health argued in October 2007 that 'calorie information provided at the time of food selection would enable New Yorkers to make more informed, healthier choices'. The expectation is that the information will help combat obesity in New York, a city in which 54% of adults are overweight or obese, according to a 2005 Community Health Survey.

Dr Thomas R. Frieden, city health commissioner, stated that the board of health passed a regulation that would help New Yorkers make healthier choices about what to eat and live longer, healthier lives as a result.

Whether this trend spreads to the rest of the US remains to be seen. Obesity is one of the bigger health problems faced by the US today with morbidity from resulting conditions such as diabetes and cardiac events increasing daily. About 65% of the nation's population over 20 years of age is considered overweight today.

The mandate comes after months of litigation. The New York Restaurant Association sued the Board of Health in an attempt to block the measure, claiming it would violate its members' First Amendment rights. Chuck Hunt, spokesman for the association, said the group was currently considering options, one of which was the intent to pursue further litigation against the city.

MEGHA CHAVAN, USA

Supreme Court: No surgery without patient's consent

In a landmark judgment delivered on 17 January 2008, the Supreme Court ruled that doctors cannot perform additional procedures during a scheduled operation, without the prior consent of the patient, except in cases where a life is in danger. A three-judge Bench comprising Justices B. N. Agrawal, P. P. Naolekar and R. V. Raveendran, in a 65-page judgment, stated that 'unless the unauthorized additional or further procedure is necessary in order to save the life or preserve the health of the patient and it would be unreasonable to delay the further procedure until the patient regains consciousness and takes a decision, a doctor cannot perform such procedure without the consent of the patient. Seeking and securing the consent of the patient before commencing a "treatment" including surgery, is a must and no part of the body can be removed without his/her consent.'

The Bench took into account the widespread public perception that private hospitals and nursing homes tend to inflate bills by carrying out additional procedures during scheduled surgical operations by obtaining consent from patients' relatives. The judges expressed anguish at the increasing commercialization of

private healthcare, as patients are subjected to innumerable and avoidable tests and medication involving prohibitive costs in several instances just to avoid any allegation of negligence. The court noted that this judgment would restrain private hospitals and nursing homes from indulging in such unhealthy practices.

This ruling came in a case where the ovaries of a patient were removed during a diagnostic procedure at a private hospital on the basis of consent taken from her relatives in 1995. It was alleged that the woman was admitted to the private hospital for 'diagnostic and operative laparoscopy' but instead a 'hysterectomy and bilateral salpingo-oophorectomy' was performed, rendering her incapable of bearing any child in the future. She went away from the hospital without paying the bill and slapped a claim of Rs 2.5 million on the doctor for taking away her right to motherhood. The Bench held that there was no consent by the appellant for performing hysterectomy and performance of such surgery was an unauthorized invasion and interference with the appellant's body which amounted to a tortuous act of assault and battery and therefore a deficiency in service. It directed that the patient need not pay the fees and in addition asked the doctor to pay a compensation of Rs 25 000 to her. Dismissing the doctor's argument that the patient's mother had consented, the Bench noted that if a patient is a competent adult, there is no question of someone else giving consent on her behalf, as there was no medical emergency during the surgery. The fact that the unauthorized additional surgery is beneficial to the patient, or that it would help the patient save time and money, cannot be a defence for a doctor's negligence, the Bench observed. The court gave this ruling while setting aside an order passed by the National Consumer Disputes Redressal Commission which had rejected the complaint of the 44-year-old woman.

The importance of the decision lies in the court's recognition of obtaining a proper and informed consent and reasonably limiting the scope of intervention to what is permissible therein. What the court stressed on, was 'informed consent'—an essential prerequisite for surgical interventions. The Bench laid down elaborate guidelines for doctors. It directed doctors to disclose the nature and procedure of the treatment and its purpose, benefits and effect; alternatives, if any available; an outline of the substantial risks; and adverse consequences of refusing treatment to the patient. However, it advised that there is no need to explain remote or theoretical risks involved as it may frighten or confuse a patient and result in refusal of consent for the necessary treatment. The Bench observed that the consent so obtained should be 'real and valid'; 'the patient should have the capacity and competence to consent; his consent should be voluntary; and his consent should be on the basis of adequate information concerning the nature of the treatment procedure, so that he knows what he is consenting to'. The Bench made it clear that the consent given only for a diagnostic procedure could not be considered as consent for therapeutic treatment.

Justice Raveendran, while stressing that doctors still enjoyed a great deal of respect among people, said that patients and doctors in a commercially run hospital are governed by an agreement under which the patient avails services for a consideration. The court made it clear that it was not condemning all and sundry in the

private health sector as people who were out to fleece money from patients. The Bench urged that there is a need to make healthcare accessible and keep the cost of treatment within affordable limits as patients in India cannot afford expensive treatment.

ANIMESH JAIN, *Mangalore, Karnataka*

Bird flu hits India again

With nearly 19 000 chicken having died in the village of Margram, District Birbhum, 125 km from Kolkata, between 8 and 13 January 2008, there was a strong possibility that the H5N1 avian influenza virus may have resurfaced in India. Samples were sent to the High Security Animal Disease Laboratory (HSADL) in Bhopal and the National Institute of Virology (NIV), Pune. At least one sample from each of the 2 districts tested positive for the H5N1 strain of avian influenza in poultry. The results of the other samples are awaited. So far, there have been no reported human cases of H5N1 influenza from the area.

Meanwhile, the West Bengal government has sounded a bird flu alert. The administration in Birbhum has imposed a ban on sale of birds in Rampurhat municipal area and two neighbouring blocks—Rampurhat I and Rampurhat II—from where abnormal mortality of chicken has been reported. The state borders have been sealed to prevent entry of chicken from Bangladesh. District officials have started distributing leaflets in the area urging residents not to buy chicken, and to use gloves while feeding their backyard poultry or wild birds.

However, progress in the planned culling of 400 000 poultry is being hampered by the reluctance of farmers and poultry owners to cooperate with animal husbandry teams sent to carry out the task. Following a meeting between officials from the Animal Resources and Development Department, the Health Department

and the Central Livestock Commission, it has been decided to increase the strength of culling teams.

Meanwhile in Bangladesh, the Ministry of Fisheries and Livestock has reported that nearly 300 000 poultry have been culled in over 93 farms in 22 districts, following an outbreak of H5N1 avian flu on 75 of the farms. No human cases have been reported there either.

PRABHA DESIKAN, *Bhopal, Madhya Pradesh*

Extension of tenure for military short service commission doctors in India

The tenure of short service commission (SSC) doctors in the Armed Forces Medical Service has been extended to 14 years from the current period of 10 years. The Union Cabinet recently approved the move and also decided to extend the time-scale promotions of SSC doctors as applicable to permanently commissioned officers. This will help in overcoming the shortage of doctors in the armed forces. The armed forces medical establishment is facing a shortage of doctors due to the high rate of attrition in view of increasing demand coupled with higher incentives in the private sector. This extended tenure will reduce the deficiency of physicians; besides, the experience of SSC officers can also be utilized for a longer period.

After a cabinet meeting presided over by Prime Minister Dr Manmohan Singh, the Information and Broadcasting Minister Mr Priya Ranjan Dasmuni told reporters that this decision would bring about parity with the time-scale promotions available to permanently commissioned officers and help in meeting the career aspirations of Armed Forces Medical Service SSC officers.

ANIMESH JAIN, *Mangalore, Karnataka*
