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Editorial

Why Didn't You Check The CT Earlier?

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Abstract

Recently, health accidents relief and medical dispute adjustment act (called Shin Hae-Cheol law) went into effect. Although the medical profession expressed its concern about passive treatment, the many civic groups welcome the SHC law. Of note, cases of some outcome are automatically entered into mediation process without consent of doctors or hospitals. However, this is a violation to the principal of the law. Because the law should be criteria-driven (or process-driven), not out driven. It needed that medical process should have its own predefined indication and contraindication or predefined criteria in detail if the society decided to give any legal obligation to doctors.

Why didn't you check the CT earlier? I was told this question many times when I was a trainee. After I became one of the staffs of a training hospital Emergency Department (ED), I also ask the same question to my residents. In most cases, their answer is that "I don't think the CT is needed for this case (or for such a patient)". Interestingly, CT is not always on my side. Sometimes, a certain disease was found through the CT. But any abnormal findings were not found through the CT. Once in a while, unexpected disease was detected through the same test. Then, who do you think is right? I who decide to check the CT or a resident who decide not to check the CT? Was I correct if the CT revealed an abnormal finding and was a resident correct if the CT did not reveal any abnormal findings? Readers would know that the decision to check the CT could not be the object of right or wrong. Rather it can be extremely variable between physicians. Like this situation, the outcome cannot justify or un-justify the process.

Health accidents relief and medical dispute adjustment act (called Shin Hae-Cheol law, SHC law in this manuscript) was passed through the national assembly of South Korea at last May and went into effect at last November 30th [1,2]. Shin Hae-Cheol was a famous artist who died after a dozen days of adhesiolysis. After a series of investigations, a court pleaded guilty to the doctor, commenting it is accepted that the death penalty was taken place due to the lack of proper management even though the doctor could detect a patient's symptom of peritonitis earlier. By his death, an aforementioned act was revised to relieve the medical harm and adjust the medical dispute more quickly than before. So, it was called SCH law. Although the medical profession expressed its concern about passive treatment, the many civic groups welcome the SHC law. Of note, some cases are automatically entered into mediation process without consent of doctors or hospitals; 1) in case of death; 2) in case of unconsciousness of more than a month; 3) in case of presidential decree among first degree of the disability rating according to the disabled persons welfare act : article 2.

Of course, malpractice should be subject to the regulation by the law. In Cambridge dictionary, malpractice refers to a failure to act correctly or legally when doing your job, often causing injury or loss [3]. Then, were problems get it done? No. When we enter deep, the problem thickens.

Acting correct means two things; doing what should be done (i.e. indication) and not-doing what should not be done (i.e. contraindication). So, it could be easy that every medical practice has its own indication and contraindication with full fidelity. Certainly, some medical practice has its own indications. However, a plenty of today's medical practice is out of indications and contraindications. Additionally, we know that the antonym of indication does not mean the contraindications. Gray zone which means a state of neither indication nor contraindication is always found for every medical practice.

Let me try an example. A patient of sedative drug intoxication visited the ED. It was clear that a patient took a considerable quantity of medication. In the case of contingencies, however, EM resident checked the brain CT and there was no finding of intracranial hemorrhage lesion. In common, a patient was expected to be awakened in a few days under intensive care. But, there is no improving on a consciousness after 2 days, even though neurologic examination is normal. EM board staff decided to check the brain CT again, which revealed the subarachnoid hemorrhage lesion. Finally, a patient died and family requested the case to 'Korea medical dispute medication and arbitration agency'. Currently, according to the SHC law, EM physicians who were related to this patient should comply with the mediation process (If they refused the mediation process, they are charged a fine of 30 million won). The result of the mediation process is divided into fault-yes and fault-no. In the case of fault-no, 30% should be accounted for.

Why didn't you check the CT earlier? - This is the question that a staff physician can do to their trainee. However, this is not the question that a dispute mediation team can do to any of doctors. Because any legal responsibility should be based on codified regulations or clauses. This means any medical process should have its own predefined indication and contraindication or predefined criteria in detail if the society decided to give any legal obligation to doctors. Certainly, the gray zone should be distinct clearly. Without a national consensus on these criteria, principal of the law cannot be kept. Because the law should be criteria-driven (or process-driven), not outcome-driven.

The U.K is a good example. The National Institute for Health and Care Excellence (NICE) provides national guidance and advice to improve health and social care in U.K. NICE have a recommendation on a wide range of topics, currently 181 [4]. It's already late, but we need to start by now for the national consensus of the medical practice criteria.

What is already known

Recently, health accidents relief and medical dispute adjustment act (called Shin Hae-Cheol law) went into effect. Cases of some outcome are automatically entered into mediation process without consent of doctors or hospitals.

What is new in the current study

It needed that medical process should have its own predefined indication and contraindication or predefined criteria in detail if the society decided to give any legal obligation to doctors. Because the law should be criteria-driven (or process-driven), not outcome-driven.

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