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The “Facts about Medicine” Announcement: The Conflict between the Rights of Doctors and the Rights of Patients

In late 2006, faced with a rise in the number of medical malpractice suits against doctors, the Medical Council of Thailand made an announcement in the Government Gazette entitled “Facts about Medicine”. The announcement replaced guidelines originally introduced in 1982. It sparked a heated controversy about doctor-patient relations.

The Medical Council and the “Facts about Medicine” announcement

Medical Council Announcement number 46/2006 on “Facts about Medicine”, signed by the President of the Council Dr. Somsak Lohlekha contains the following points:

In order to properly conduct medical procedures in accordance with Article 21 (3) of the 1982 Medical Act the Council agreed on the November 9, 2006 to announce that,

1. Medicine means modern medicine proven by science procedures to produce benefits
2. Medicine cannot diagnose, prevent and/or cure all diseases or all cases. Sometimes only supportive care can be offered. Diagnosis may be impossible in some diseases.
3. Some times in the medical treatment, unwanted circumstances occur despite sufficient caution and care by the medical profession.
4. Medical practitioners shall take the rights and interests of patients into account when choosing medical procedures, giving advice or making referrals.
5. For the benefit of patients, medical practitioners may refuse to treat patients who do not need of immediate treatment and do not face life-threatening conditions, though they must then give appropriate recommendations or refer the patient.
6. Medical practitioners who follow standard procedures and conform to medical ethics shall be entitled to protection from unjust accusations.
7. The work burden, hospital limitations, the physical and mental condition of medical practitioners, and the environment may affect the results and the efficacy of treatments.
8. If patents conceal health information and medical facts from medical practitioners who diagnose and treat them, this may affect the diagnosis and treatment.
9. Failure to follow the advice of medical professional or medical practitioners may affect the treatment and diagnosis.

The announcement had already been redrafted, and the number of provisions reduced from 10 to 9, in response to public comments, but it nevertheless generated controversy. The most heavily criticized provision was Number 5

“For the benefit of patients, medical practitioners may

refuse to treat patients who do not need of immediate treatment and do not face life-threatening conditions, but must give appropriate recommendations or refer the patient”.

Critics were concerned that the provision allowed doctors to refuse care for condition that were not life-threatening.

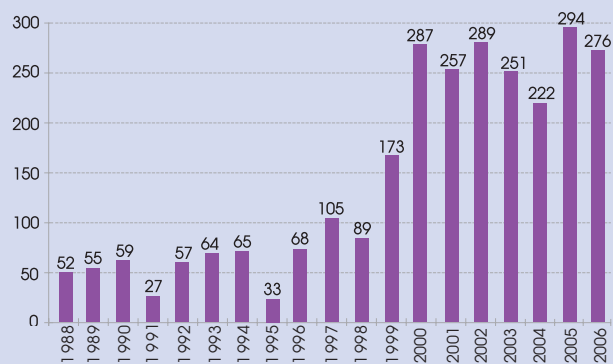
Opposing Perspectives on Doctors’ and Patients’ Rights

Many groups reacted adversely to the announcement. They saw it as an attempt by doctors to protect themselves from malpractice lawsuits.

The number of complaints lodged with the Medical Council of Thailand increased dramatically between 1988 and 2006 (see figure). Every year since 2000, the numbers cases filed against doctors for medical damages exceeded 200. In 2005, nearly 300 complaints were received. This prompted the Medical Council to make their “Facts about Medicine” announcement.

Number of complaints lodged with the Medical Council of Thailand between 1988 and 2006

Complaints



Source : Secretariat Office of the Medical Council of Thailand, Ministry of Public Health

Pinit Kullavanijaya, Secretary General of the Medical Council of Thailand, claimed that the aim of the “Facts about Medicine” announcement was to protect patients rather than doctors. He stated that sometimes doctors could not adequately treat conditions that they were not sufficiently expert on.

Meanwhile, the Council President insisted that the announcement had been developed for more than four years and had not been drawn up hastily.

Before the announcement, the Council had put forward a "Draft Medical Facts" Announcement (number 46/2006). The draft announcement was the first suggestion that Council members (meaning every medical practitioner in Thailand) might turn down non-emergency patients for the patients' benefit. The rejection would protect doctors from lawsuits.

By including the rights of patients as well as doctors, the announcement tried to clarify the relationship between doctors and the public. Dr. Somsak Lohlekha, in an interview with the Chulalongkorn University Radio Station May 18, 2006, explained as follows

After the announcement on patients' rights in 1998, there were many attempts to explain patients' rights. However, the explanations failed to include information on the responsibilities of patients towards doctors and the right of doctors. It was a one-sided announcement with insufficient information for patients. Owing to a lack of medical information and understanding, there were lots of unsound complaints. When doctors gave explanations, patients thought they were making excuses instead. Most of doctors were correct, but they created a bad impression. They tried to do the right thing, but they received allegations in return. If patients filed lawsuits, doctors had to waste time as well as money for lawyer fees.

Most patients who sue doctors have no time to work. They spend all their time thinking about cases that they do not understand properly, and eventually go bankrupt. Their money is wasted on fees during the years it takes for the court to make a decision. Furthermore, the dead cannot be revived. The Committee therefore drafted the "Facts about Medicine" announcement and proposed that the Committee put it to the public. It was announced together with the patients' rights to help improve people's understanding. The Council also set up an ad hoc committee to consider the announcement. The Committee proposed the announcement for the council's approval.

In response to criticism from various groups and a demand that the Council void the announcement, the Council restated its intention to stick with the Medical Facts announcement. It insisted that the announcement protected patients, and not just medical practitioners.

Dr. Ampon Jindawattana, Secretary of the Committee on Public Health Affairs, National Legislative Assembly, said that the Committee had considered the announcement and was concerned about a widening gap between doctors and the public. The Committee believed that the Medical Council had acted in good faith to communicate medical facts to the public. However, the announcement could lead to misunderstanding. The Committee hoped that, for the people's benefit, the Council would acknowledge concerns and comments, and would review the announcement.

The Network of Victims of Medical Malpractice, led by Preeyanant Lorsermwatthan, reacted angrily to the announcement. It claimed that, although the announcement was correct in places, doctors had not behaved in ways that would earn them the trust of the general public. In many instances, the Medical Council had refused to take action, but when the case was taken to court, the court found in the patient's favor

Dr. Pradit Charoenthaitawee, a member of the National Human Rights Commission and former member of the Committee on Medical Ethics, stated that doctors currently pay too much attention to earning money. Each week 3 or 4 people file claims against doctors for medical errors. Dr Pradit described the case of a 70-year-old monk who suffered a compound fracture after falling off a turning train. The monk was treated by Chulalongkorn Hospital, Lersin Hospital, Ta Clee Hospital in Nakhon Sawan and the Police Hospital. All these hospitals gave him inadequate treatment, providing only tincture of iodine for a 4-inch-long wound. The Commission had been investigating the case. In addition to this, the Medical Council rarely invited the patients to testify. The Council should improve the training given at medical schools and colleges by adding more lessons on ethics, moral principles and sympathy with patients.

The Consumers Foundation, under Saree Ongsomwang, applied to have the announcement struck down by the Administrative Court. Dr. Niran Pitakwatchara, a former senator from Ubon Ratchathani, stated publicly that the announcement reflected badly on medical practitioners and was an evasion of doctors' responsibilities

The Most Recent Amendment

Only one day after the "Facts about Medicine" announcement, the Council amended the Medical Ethics section of the "Regulations of the Medical Council". The amendments took effect on December 1, 2006.

Article 28 was changed from "*Medical practitioners shall not refuse requests to treat patients whose life are in danger*" to "*Medical practitioners shall not refuse requests to treat patients whose life are in danger, except for patients who are not in need of immediate treatment, though the medical practitioner must provide appropriate recommendations.*"

The addition of the extra clause led to fears that doctors might refuse treatment in cases where the patient was not at risk of dying but was at risk of disability or the loss of organs.

In response to the amendment, Dr. Jade Donovanik, Dean of the College of Law at Siam University, commented that doctors appeared to be responsible only for patients who were near death. Everyone else could be refused treatment. The rule went against the government's aim to provide universal coverage. Everyone knew already that doctors could deny treatment for diseases that they did not have the expertise to treat.

Dr. Jade added that, in his opinion, the regulations issued by the of the Medical Council did not have the force of law. They were merely guidelines that members of the professional organization should follow. In cases of violations of consumers' rights, the consumer could submit a complaint to the Consumer Protection Committee or the Medical Council for review.

The Urgent Need to Improve Understanding Between Doctors and Patients

The "Facts about Medicine" announcement and the amended Regulations of the Medical Council damaged the relationship between the Council and the general public. Distrust of doctors had already been growing among patients and their relatives. Mistrust has many harmful consequences. For instance, referring patients with complex conditions to specialists results in a longer queues, and possibly deaths among patients waiting for treatment.

Mistrust can also slow medical progress. Medical practitioners may be excessively concerned about risks arising from new techniques or treatments. Teachers may not give their students the opportunity to practice their skills for fear of malpractice suits. New doctors will therefore have little practical experience. Patients will be over-diagnosed and burdened with extra expenses. Some will receive unnecessary treatments by doctors wishing to avoid accusations of neglect.

The doctor-patient relationship inevitably raises questions about power. Patients have to rely on doctors. Doctors working at public hospitals are overburdened with too many patients, leading to misunderstandings. It is therefore crucial to improve mutual understanding, and to develop effective for addressing problems and injustices.

