F49 Law N. 24 of March 2017 and the Italian National System of Guidelines (SNLG): Bureaucratization of Medicine in the Name of Security of Care or a Spending Review?

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Learning Overview: The purpose of this study is to review the clinical and judicial implications after the approval of Italian law N. 24 from March 24, 2017.

Impact on the Forensic Science Community: This presentation will impact the forensic science community by drawing attention to the fact that any attempt to bureaucratize medicine could lead to reduced trials, but also to worse treatments, slowing down scientific research, and relegating the medical personnel as a mere executor of guidelines without taking into consideration the specificity of each patient.

In recent decades, the medical error and the risk management action required to prevent organizational dysfunctions and litigation regarding medical malpractice (and anything else that could compromise the security of care) has increased exponentially, becoming a controversial phenomenon.

Although the first to introduce this was the English jurist Sir William Blackstone in 1768, who in his Commentaries on the Laws of England (1768) coined the term *mala praxis* (which then became malpractice) referring to medical activity, it is only from the 1980s (and almost exclusively in the United States) that the medical error and its consequences became a "problem: for medicine.

The Italian national health care system has suffered from many claims and judiciary trials against health care professionals, thus implying significant economic losses and wasting of resources.

The law N. 24 from March 24, 2017, was an attempt to address these issues, trying to limit these trials by the optimization and improvement of the quality of health care services. Furthermore, it tried to fasten the official recognition of guidelines and scientific literature and optimize the trials if the health care professional adopts these guidelines. Without the mentioned recommendations, the health professionals should adopt the best clinical practices.

The guidelines are recommendations defined by scientific evidence, with the goal of ensuring the appropriateness of a clinical choice. This is the reason it is not considered a dogmatic truth, that is an imperative one, but a conventional truth decided by a community of experts.

The new law attempts to reach these goals through the establishment of a National System of Guidelines. Any new guideline needs to be drafted by a recognized group, institution, or organization before being submitted and published on a nationwide scale. Every guideline then needs to be updated every two years. In addition, the law tries to minimize lawsuits by requiring the injured patients to attempt to reach an agreement with the medical personnel before appealing to courts.

These strategies lead to many questions and debates: Is a national overview the right approach in keeping the guidelines up to date? What if a new, better, international, and well-recognized guideline is released, but the national guideline is still obsolete and disagrees, even if only partially, with the international guidelines? Which guideline should the health care professionals follow? Why should a health care professional take the responsibility to choose the best treatment for the patient, when the guidelines approved by the Ministry of Health can relieve him from responsibility, if this could cause further damage to the patient? Do these approaches really reduce litigation?

This law, while protecting the doctor from his responsibilities, seems to institutionalize the negative phenomenon of defensive medicine in a mass effect and to create the conditions for a national "cook book medicine,' which should be considered in view of two dangerous connected scenarios. The patient could no longer be treated as such, but only because of the professional risk it represents, and the physicians/researchers could have permanent loss of any interest in research.

The debate about law N. 24 from March 24, 2017, is still open and far from reaching its conclusion.

Professional Liability, Guidelines, Medical Malpractice