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Short Communication

Reliability of clinical judgment of patients' competency to give informed consent: A case vignette study

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Abstract The competency of psychiatric patients to give informed consent is important in respecting patients' decisions as well as protecting patients from undue exploitation. A total of 176 members of the Japanese Society of Psychiatry and Neurology gave a clinical judgment in a questionnaire of competency in five case transcriptions. Their interrater reliability of competency judgment was slight (generalized kappa 0.31). Clinicians' global judgment of patients' competency was not reliable, but it may be improved by the use of a structured interview.

Key words clinical assessment, competency, informed consent, reliability.

INTRODUCTION

The current Japanese Mental Health and Welfare Law provides two involuntary admission systems. One (Article 33) states that if a person is deemed by the superintendent of a mental hospital, from the result of medical examination by a designated physician, to be mentally disordered and in need of admission to a hospital then the superintendent can admit the patient with the consent of the patient's *hogosha* (guardian) even without the consent of the patient.[1] However, a recent amendment of the Act notes that the patient's consent is required (Article 22–3) when admitting him/her and Article 33 should be used only when the consent is unavailable. This amendment will be in effect early in 2000. This is the first time the term 'patient's consent' has appeared in Japanese mental health legislation.

Although this phrase calls for further debate on the definition and implications, we can say at least that Japan has moved forward in respecting psychiatric patients' autonomous decision-making. Hence, mental health professionals will have to ask whether the patient's consent is valid and justifiable. According to Western medical ethics, the patient's decision should be respected if he/she is competent but it should be abrogated for the care of him/her if he/she is incompetent.[2] Judgment of competency is thus very important for both the legal rights and the medical protection of mental patients. However, Japanese mental health professionals have long been uneducated and little concerned as to how to assess patient competency.

The present study addresses the issue of reliability of Japanese mental health professionals' assessment of the psychiatric patients' competency to give informed consent.

MATERIALS AND METHODS

Subjects

The participants were from the population described in our previous report.[3] We sent invitations to 793 (10%) of the 7960 members of the Japanese Society of Psychiatry and Neurology (JSPN) selected at random. Of these, 248 (31%) consented to participate in the study; one letter was returned due to a change of address. We sent questionnaires to these 248 people, of which 182 (73%) were returned. Their mean (SD) age was 45.9 (13.7) years, and the proportion of males was 88.1%.

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Measures

The questionnaire included five interview transcriptions.[4] All cases were psychiatric patients with different diagnoses but who were recommended to undergo electroconvulsive therapy (ECT) due to drug therapy failure to improve their mental status. They were extracted from a pool of cases collected for the Competency Interview Schedule study at the Clarke Institute, Toronto, Canada.[5] Each transcript was approximately four pages in length, and described the interviewers' examining the patient's ability to understand different aspects related to competency. In each case, the participant was instructed that the patient had been informed of the benefits and risks of ECT, and alternative treatments. For each case, the participant was asked to judge whether the patient: (i) had sufficient information about the risks, benefits, and alternatives to ECT in order to make an informed treatment decision; (ii) had made his/her treatment decision based on rational reasoning; (iii) had insight into the nature and severity of his/her illness; (iv) appreciated the need for treatment and the consequences of not having it; and (v) was competent to make a treatment decision regarding ECT. All items were to be answered 'yes' or 'no'. The responses of the participants in the last enquiry were used for the interrater agreement of clinicians' judgment on patients' competency to give informed consent.

Using clinical expertise, Bean *et al*. classified the cases into 'clearly competent', 'clearly incompetent', and 'marginal'.[4] The five cases included one that was clearly competent (case A), one that was clearly incompetent (case B), and three that were marginal (cases C, D, and E).

Statistical analyses

The interrater agreement among the JSPN members for their judgment on the competency of the five cases was calculated using the intraclass correlation coefficient.[6,7]

RESULTS

A total of 176 JSPN members answered all five of the case transcriptions. Of these, 135 (76.7%) answered that case A was competent, seven (4.0%) that case B was competent, 31 (17.6%) that case C was competent, 34 (19.3%) that case D was competent, and 37 (21.0%) that case E was competent. The intraclass correlation coefficient was 0.31.

DISCUSSION

Analysis revealed that agreement among Japanese mental health professionals on the judgment of patients' competency was poor.

There may be different explanations. Membership in JSPN does not require an examination. The current Mental Health and Welfare Law in Japan defines a designated physician but any medical graduate can register as a Mental Health and Welfare Law-designated physician after submitting to the Government several case reports of patients and attending a few day courses in psychiatric education. Registration does not mandate a formal examination. Thus, the present finding may be due to the lack of specialist qualifications and established postgraduate education in psychiatry in Japan. We should be cautious about this speculation because we failed to ask the participants about their specialist training and education. Future graduate and postgraduate training of psychiatry should include more medico-legal aspects of psychiatry.

Another explanation may be the finding that the Japanese have an image of patient competency that is multi-dimensional. Kitamura *et al*. performed a factor analysis of question sentences regarding patient competency to give informed consent.[8] The responses of Japanese psychiatrists, lawyers, and medical and law students were collected. Four factors emerged: 'understanding of the treatment', 'insight', 'autonomy and lack of coercion', and 'best interest and recovery'. The many facets related to the concept of competency may cause confusion when clinicians are requested to make judgments based on a dichotomous scale.

Our previous studies show that a structured interview for assessing patient competency may be used with moderate reliability and concurrent validity.[9] This finding might lead to a notion that clinicians' global judgment need not be substituted by an interview guide. This was, however, refuted by the present study which showed that in a case vignette design the agreement among Japanese mental health professionals about case competency was poor.

The infrequent use of ECT in Japan and Japanese psychiatrists' negative attitudes towards it may be a possible explanation for the present finding. If this study is to be replicated, case vignettes should be from patients who are recommended medication.

Although it is preliminary, the present study suggests that there is much to be improved in Japanese mental health professionals' ability to judge competency of mental patients to give informed consent.

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