

Special Feature

Should medical accidents be judged in criminal court?—Establishing a new patient safety system in Japan

Kyorin University Chopstick Case

Chronological List of Events

The overview of the case

On July 10, 1999, otorhinolaryngologist X examined a boy (age 4 years and 9 month) who was brought in by an ambulance as an emergency patient. He had fallen over with a cotton candy on a disposable chopstick in his mouth that was purchased from a food stall, and the chopstick had pierced the soft palate. The boy's conscience was clear and there was no hemorrhage, so the physician applied medicine including antiseptic agents, prescribed an antibiotic, and released the boy home. The next day, the boy died.

The judicial autopsy revealed that a piece of a chopstick 7.6 cm in length was left in the head, which had passed through the left jugular foramen and entered the intracranial region at 2 cm in depth.

The progress of medical events

July 10, 1999

- 18:05 The boy (age 4 years and 9 month) fell over; the boy pulled out the chopstick himself.
- 18:07–10 Nurses rushed to the site and moved the boy to an infirmary
- 18:11 The ambulance arrived
- 18:20 The ambulance left the site
- 18:40–50 The ambulance arrived at the emergency center → the boy was moved to an examination table in a treatment room → primary examination (confirms the state of consciousness, oral cavity examination) → the boy was moved from the treatment room to the examination room → examined by a physician
- 18:57 The examination was finished, and the mother called home
- 21:00 The boy and the mother went home

July 11, 1999

- 06:00 The mother said to the boy, "Let's go and buy a toy on Monday"
- 07:30 An emergency telephone number was called
- 09:02 The boy died

The progress of the legal events

- 1999** Jul 11 The child patient died
- Jul 12 A judicial autopsy was performed at the forensic medicine lab, School of Medicine, Keio University
- 2000** Dec A civil case was filed against the incorporated educational institution Kyorin University and the physician
- 2002** Aug 2 Indictment without arrest

- Nov 29 The 1st public trial at Tokyo District Court (44 public trials were held before court reached its decision, generally 1 to 2 times a month)
- 2006** Mar 28 The 44th public trial at Tokyo District Court (criminal court, judgment of not guilty)
- Apr The public prosecutor appealed
- 2007** Jun 12 The 1st public trial at Tokyo High Court
- 2008** Feb 12 Tokyo District Court (civil court, claim dismissed)
- Nov 20 Tokyo High Court (criminal court, appeal dismissed)
- Dec The judgment of not guilty became final
- 2009** Apr 15 The 9th public trial at Tokyo High Court (civil court, appeal dismissed)