

ARTICLE

South Korea: Video Cameras to Be Installed in Operating Rooms

On August 31, 2021, the National Assembly of Korea passed a [bill to amend the Medical Service Act](#). The amendment aims to protect patients against medical negligence or malpractice. The Amendment Act ([Act No. 18468](#)) was published in the official gazette on September 24, 2021. The amended act allows a two-year grace period before it officially goes into force after its promulgation. (Amendment Act Supp. Provisions.)

Background to the Amendment

South Korea has been [attracting medical tourists](#) in earnest since 2009. The Gangnam District of Seoul is a “[mecca of medical tourism](#).” As of 2019, more than 130,000 medical tourists had come for treatment at the cluster of medical institutions located there. After [cosmetic surgery malpractice](#) in Gangnam involving the deaths of patients was reported in 2015, the Ministry of Health and Welfare took [measures to crack down on illegal brokers](#) and enhance medical safety for foreigners seeking cosmetic and plastic surgery.

One of the causes of malpractice is [ghost surgery](#), in which the actual surgery is conducted by substitute surgeons — for example, residents, physicians’ assistants, or any other healthcare practitioner or individual. Unless the medical service providers inform them, patients do not know who has actually performed their surgery because they are unconscious from anesthesia.

Ghost surgery practices appear to have continued. In April 2021, the death of a healthy male college student who had undergone ghost plastic surgery was widely [publicized by the media](#).

Though resistance to the bill to amend the law from medical groups was strong, [the general public strongly supported the bill](#).

Contents of the Amended Act

The amended act mandates that hospitals and clinics conducting surgeries on unconscious patients install closed-circuit television cameras in their operating rooms. The government will provide financial support for the installation of the cameras. (Art. 38-2, para. 1.) If patients who will be unconscious during surgery or their guardians request, the medical institution must videotape the surgery. Medical institutions can refuse such requests only in the following cases:

1. The performance of emergency surgery whose delay risks the patient’s life or serious mental or physical

disabilities.

2. The performance of a high-risk surgery.
3. A concern exists that the videotaping may significantly hinder the training of doctors.
4. Other cases prescribed by Ordinance of the Ministry of Health and Welfare. (Art. 38-2, para. 2.)

Sounds during operations are not to be recorded unless the patient and all relevant medical personnel agree to record them. (Art. 38-2, para. 3.)

The amended act has provisions to protect the recorded video, obligating heads of medical institutions that install the cameras to take all technical, managerial, and physical measures necessary to secure the videos and relevant systems. (Art. 38-2, para. 4.) The heads of medical institutions themselves may not view the videos, nor can they allow anyone else to view them or provide them for viewing, except in the following cases:

1. A relevant agency requests the video for the investigation or prosecution of a crime or for a court procedure.
2. The Medical Dispute Mediation and Arbitration Agency requests the video for a case after commencement of procedures and if the patient or patient's guardian consents to the viewing.
3. All data subjects, such as the patient and the medical personnel who participated in the surgery, provide their consent. (Art. 38-2, para. 5.)

The amended act prohibits anyone from "searching out," leaking, altering, or damaging images in the video. (Art. 38-2, para. 6.) Violators of this prohibition and the viewing regulation above are punishable by imprisonment for up to five years or a fine not exceeding 50 million won (US\$43,000). (Art. 87-2, para. 2.)

Medical institutions must keep the video for more than 30 days for future reference in case legal disputes arise. (Art. 38-2, para. 9.)

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Contributors[Umeda, Sayuri](#)**Dates**[2021](#)**Locations**[South Korea](#)**Languages**[English](#)**Subjects**[Health](#)[Health Facilities and Institutions](#)[Medical Personnel](#)[Right of Privacy](#)**+ Rights & Access****+ Cite This Item****More Articles like this****ARTICLE**[South Korea: Government Orders Striking Doctors-in-Training to Return to Work](#)**ARTICLE**[South Korea: Coffee Banned in Schools](#)**ARTICLE**[South Korea: Pilot Program Started for the Well-Dying Law](#)**ARTICLE**[South Korea: Five-Year Mental Health Plan Aimed at Reducing Suicides Adopted](#)**ARTICLE**[South Korea: Abortion Decriminalized since January 1, 2021](#)

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