台北市醫療院所負責醫師對醫療爭議調處之認知、態度探討及調處之法律經濟分析

Physicians' Knowledge and Attitude and the Legal Economics of Medical Dispute Administration Mediation in Taipei

中文摘要

本文之研究目的有四：(一)以問卷調查全台北市醫療院所之西醫負責醫師對醫療爭議調處之認知及態度；(二)瞭解全台北市醫療院所之西醫負責醫師醫療爭議經驗；(三)蒐集全台北市醫療爭議調處之各類次級資料與案件類型描述；(四)以法律經濟分析探討調處與其他醫療爭議解決方式之成效。本研究之資料來源分別透過 1.結構式問卷(總計發出 1,281 份問卷，共回收 350 份，回收率爲 27.32%，有效回收率 25.21%)；2.台北市政府衛生局醫療爭議調處次級資料庫；3.司法院判決書資料庫；4.名義技術團體法(Nominal Group Technique, NGT)四者進行。研究結果如下所述：

執業至今有 41.56%之負責醫師發生過醫療爭議經驗； 90.96%之負責醫師皆對醫療爭議調處有相當程度之瞭解，僅有 3.2%對調處抱持著負面態度；其中負責醫師之性別會影響負責醫師對醫療爭議調處之認知，負責醫師之年齡、對醫療爭議調處之認知及是否發生過醫療爭議經驗則會影響負責醫師對醫療爭議調處之態度。此外，本研究所得調處次級資料庫中 90 年至 94 年間之醫療爭議申訴案件中，最常發生醫療爭議之科別以內科爲最高，其次分別爲外科及婦產科；發生醫療爭議之最主要原因爲與醫療有直接相關之原因最多達 62.9%。但在醫療爭議申訴案件中已調處件數僅達 18.7%，調處案件中之和解金額則介於 0 元至 115 萬元之間。法律濟分析方面，由其法律請求權預期價值計算結果得知，若以非衛生局調解及司法訴訟比較之，發生醫療爭議，以醫師之角度來看，建議採取之解決管道順序爲非衛生局調解>司法訴訟；若以病人之角度來看，發生醫療爭議建議取之解決管道順序亦爲非衛生局調解>司法訴訟；倘若以衛生局調處及司法訴訟比較之，發生醫療爭議，以醫師之角度來看，議採取之解決管道順序爲衛生局調處>司法訴訟；若以病人之角度來看，發生醫療爭議建議取之解決管道順序亦爲司法訴訟>衛生局調處。

英文摘要

The purposes of this study were as the following: to investigate the knowledge of and the attitude toward medical dispute administration mediation of physicians in charge of hospitals and clinics and their experiences through a questionnaire survey; secondary data analyses of the medical dispute mediation records of Taipei city government; the legal economical analyses of judicial proceedings and alternative dispute resolutions. The materials of this research came from four sources: the questionnaire survey, the medical dispute mediation files of the health bureau of Taipei City Government, the judicial decision database of Judicial Yuan of the Republic of China, and the expert opinions extracted by the nominal group technique. The result indicated that 41.56% of the in charge physicians have ever encountered medical disputes in the past; 90.96% of the responding physicians have a good understanding of medical dispute administration mediation and only 3.2% of them have negative attitudes toward administration mediation. The physicians' gender will influence knowledge. The physicians' age, knowledge of administration mediation, medical dispute experiences will influence their attitude toward administration mediation. 889 disputed cases have been reported to the health bureau from 2001 to 2005. Internists, obstetricians/gynecologists, general surgeons and orthopedic surgeons account for most of these disputes, and the most important reason causing disputes is clinical practice related, 62.9%. However, of the 889, only 18.7% filed for mediation, and the monetary amounts of settlements range from 0 to 1,150,000 new Taiwan dollars.

As to the legal economical analyses, when we compared non-administration mediation with lawsuit, both physicians and patients would prefer mediation from the perspective of expectation value. On the other hand, when the comparison is between administration mediation and lawsuit, physicians would prefer administration mediation, whereas patients would prefer lawsuit.