

安寧緩和照護與 臺灣法制交織 的來時路及展望

The Past and Prospects of the Intertwining of
Hospice and Palliative Care and Laws in Taiwan

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摘要

安寧照護以提供全人的身心社靈關懷之高品質高科技人性化照護為核心，以保障死亡尊嚴與生命尊嚴為使命。法律在臺灣作為推動安寧照護四路並進（服務、教育、作業規範與立法）的其一，在保障無效與無益醫療的拒絕權、促進病人知情決策與接受安寧照護等權利的保障具有重要功能。然安寧緩和醫療條例與病人自主權利法現行之重要限制有三：具行為能力者方受法律保障自主權、代理決定與醫療委任代理人制度不夠普遍與完整、末期或是特定臨床條件才適用預立意願的文件，未來需要進一步改變以更貼近自主的實踐。

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關鍵詞：安寧緩和照護（hospice and palliative care）、安寧緩和醫療條例（Hospice Palliative Care Act）、死亡尊嚴（death dignity）、病人自主權利法（Patient Right to Autonomy Act）、醫療自主（medical autonomy）

DOI：10.53106/241553062025020100009

Hospice and Palliative care is centered on providing high-quality, high-tech and humanized care for caring the whole person's physical, mental, social and spiritual needs, and protects the dignity of dying and living. As one of the four ways to promote hospice care in Taiwan (services, education, practice guides and legislation), the law plays an important role in protecting the right to refuse futile and not beneficial medical treatments, and promoting the right of informed choice and to receive palliative care. However, there are three important restrictions in the current Hospice Palliative Care Act and Patient Right to Autonomy Act: the capacity-autonomy framework, incomplete healthcare attorney system, and the application of documents only at the terminal stage or under specific clinical conditions. It will need to be amended for the purpose of implementation of patient autonomy and human dignity.

壹、臺灣安寧緩和照護與安寧緩和醫療條例的歷史回顧

1994年秋，臺灣安寧照護推手趙可式博士一席演講令聽眾江綺雯國大代表深感興趣，並在當年底國大代表修憲會議中的「國是建言」以「安寧療護」為主題，向總統建言，引起了時任行政院徐立德副院長的重視。徐副院長親自參訪耕莘醫院安寧病房後，指示衛生署推動安寧療護發展¹。1995年開始，行政院衛生署（現為衛生福利部）開始重視安寧療護的需求，從政策面及保險給付方向促進安寧療護的發展，以服務病人、教

1 趙可式，台灣安寧療護的發展與前瞻。護理雜誌，56卷1期，2009年2月，7頁。