

醫糾案件鑑定之探討

On the Appraisal of Medical Lawsuits

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摘要

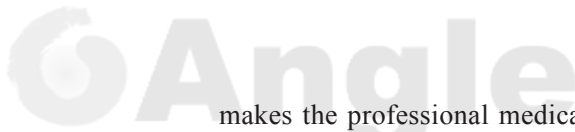
按醫事糾紛鑑定，乃醫事糾紛發生並涉訟時，藉由鑑定機關（第三人），就委託鑑定機關（檢察署或法院）所提出之卷證資料及委託鑑定事由，依病歷紀錄提供客觀之醫療專業意見予委託鑑定機關作為認定事實之參考。至該意見是否為委託鑑定機關所採用，則係由委託鑑定機關依據經驗法則與論理法則自行判斷。本件法院採鑑定機關之意見，認為急診室乙醫師雖有疏失，然與病人A之死亡結果並無因果關係，而主治醫師丙並無疏失。原告依侵權行為及債務不履行之規定，請求乙、丙醫師與甲醫院負連帶賠償責任，自屬無據。

During the medical lawsuits, the appraisal institute analyzes materials, which is given by the clients, like the procurator office or the court, and the medical records

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makes the professional medical opinion as the appraisal, so that the client could take it into consideration. Whether the appraisal would be accepted, depends on the judgment which was made by the client according to rule of thumb and logic principles. The court in this case took the appraisal into consideration and affirmed that the physician B in Emergency had fault even though, it still had no causation with the death of the patient A. Furthermore, the attending Physician C had no Fault. The plaintiffs complain about the compensation for damage by the B, C, and the hospital according to the infringement and the non-performance of obligation had no reason as the result.

壹、案例

原告之女A至被告甲醫院求診，被告乙、丙分任該院急診室住院醫師及主治醫師。乙先對A輸液1000c.c.後，A之血壓未見上升，且肝指數異常，惟乙疏未立刻為進一步之鑑別診斷，致未及時查知A實係罹患猛爆性心肌炎，並繼續進行輸液，而丙未在急診室留守致未能發現上情。嗣乙發現A出現心室頻脈，僅呼叫心臟科值班醫師，未立即進行心臟整流電擊，亦未給予抗心律不整藥物，嗣給予心臟同步整流電擊，丙亦囑咐給予抗心律不整藥物，惟A因急救延誤而死亡。

貳、爭點

本案例之爭點有二：

- 一、乙、丙處理本件醫療過程，是否有遲延？
- 二、乙、丙若有醫療疏失，與A之死亡結果間有無相當因果關係？甲醫院是否需共同負損害賠償責任？