

網際醫病關係之崩解(三)*

Internet Disruptions In The Doctor-Patient Relationship (III)

謝宛婷 Wan-Ting Hsieh 編譯



本篇中譯自Oxford University Press授權繁體中文

本文上篇載於本報告第55期，50-61頁。

捌、被誹謗的醫師

在網路環境中，各式各樣的個人及法人都表現出準備發表有關醫生行為和執業勝任能力的誹謗性材料¹。在一些有問題的場合，病人對來自醫生的結果或

1 See J O'Donnell and K Alltucker, 'Doctors, Hospitals Sue Patients Who Post Negative Comments and Reviews on Social Media' USA Today (18 July 2018): <<https://www.usatoday.com/story/news/politics/2018/07/18/doctors-hospitals-sue-patients-posting-negative-online-comments/763981002/>> .

*Ian R Freckelton, QC, Internet Disruptions in the Doctor-Patient Relationship, MEDICAL LAW REVIEW 2020; Volume 28, Issue3, Summer 2020, Pages 502-525, doi:10.1093/medlaw/fwaa008. Translated and reprinted by permission of Oxford University Press. © The Author(s) 2020. All rights reserved. For permissions, please email: journals.permissions@oup.com

**奇美醫療財團法人奇美醫院緩和醫學科主任 (Director of Palliative Medicine Department, Chi-Mei Medical Center)

關鍵詞：谷歌醫生 (Dr Google)、網路發表物 (online publications)、網際網路 (internet)、誹謗 (defamation)、醫病關係 (doctor-patient relationship)

DOI : 10.3966/241553062021060056007

與醫生其他形式的互動感到失望，病人衝動地在網路上發洩，並提出與事實關係不大的指控，但卻蓄意傷害和羞辱醫生。

另一個表達無法調解的委屈的管道是對醫生進行評價或提供醫病互動記錄的網站（參見 *Zoutman v Graham*）。這些網站所採用的標準不同，對病人提出對主治醫師的觀察和批評的範圍也不同²。顯然，這些網站也面臨著被起訴的風險³。這些網站的造訪流量越來越大，成為潛在病人決定是否想要特定醫生服務的依據。

透過社交媒體（參見 *Al Muderis v Duncan (No 3)*）和部落格（參見 *Charakida v Jackson*）開展的行動，也可以招來相當大的罵名，對專業聲譽造成極大的損害。那些自認為是「鍵盤戰士」（keyboard warriors）的人蓄意或惡意地發表誹謗或謠言，可能會損害醫療執業者的專業聲譽，並對他們的轉診來源及病人是否準備接受他們的治療產生直接影響。

追求罵名或尋求成為焦點而採取低於標準或危險做法的記者，也要為網路誹謗醫生的出版物負一定比例之責（參見

2 See F Rothenfluh and PJ Schulz, 'Content, Quality and Assessment Tools of Physician-Rating Websites in 12 Countries: Quantitative Analysis' (2018) 20(6) *Journal of Medical Internet Research* e212.

3 See eg J Hennessy, 'A Doctor is Suing Google Australia for Negative Reviews Calling Him "Incompetent" and a "Fraud" But the Tech Giant Says the Criticism is Fair Game' (*Business Insider*, 18 September 2019): <<https://www.businessinsider.com.au/a-doctor-is-suing-google-australia-over-negative-reviews-calling-him-incompetent-and-a-fraud-but-the-tech-giant-says-the-criticism-is-fair-game-2019-9>>. In respect of the German website 'Jameda', and the decisions in relation to its obligations, see 'German Doctor Wins Right to Remove Name from Rating Website' (*DW.com*, 20 February 2018) <<https://www.dw.com/en/germandoctor-wins-right-to-remove-name-from-rating-website/a-42654605>>; 'Judgment: Jameda Has to Delete Doctors Profiles Under Certain Circumstances' *Newsrnd* (7 December 2019) <https://newsrnd.com/tech/2019-12-06-judgment-jameda-has-to-delete-doctors-profiles-under-certain-circumstances-BkWMtJ_aB.html>.