

# 生產事故救濟條例 施行成效及省思

Achievements and Lessons from the  
Implementation of the Childbirth Accident Relief Act

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## 摘要

「生產事故救濟條例」於2016年6月施行，至2023年底共受理2214件申請，核准2048件，救濟金額達新臺幣12.878億元。該條例的立法背景源於婦產科醫療糾紛頻繁導致醫師人力短缺，並危及婦幼照護。試辦計畫期間，產科糾紛下降七成，促使法案通過並改善婦產科執業環境。救濟範圍涵蓋生產過程中母親、新生兒、胎兒死亡及中度以上身心障礙等情況。法條的順利推動也促成2022年的「醫療事故預防及爭議處理辦法」的立法，進一步提升醫病關係，建立訴訟外紛爭解決機制。救濟案件中問卷調查顯示關懷服務與民眾感受間存在落差，尤其在病情解釋方面反映醫病信任

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不足，強調醫療人員關懷訓練的必要性及不責難文化的實質建立。此外，孕產婦死亡率上升與高齡產婦增加密切相關。晚婚晚育現象加劇孕產風險，呼籲政策優化職場環境及減少生產醫療風險。醫療院所對高危險妊娠的風險控管不足，特別是胎兒窘迫、新生兒缺氧等問題。應加強產前風險評估、綠色轉診通道及急救訓練。為解決少子化趨勢下生產醫療資源不均的挑戰，開放醫院模式提供解方，但需妥善處理醫療體系整合與誘因設計問題。整體而言，「生產事故救濟條例」成功減少醫療訴訟並改善婦產科困境，但仍需持續強化醫病關懷、風險控管及政策配套，降低孕產婦及新生兒死亡及重病，達成「安心生產，國家保障」的目標。

The Childbirth Accident Emergency Relief Act (CAERA) was implemented in June 2016. By the end of 2023, 2214 applications had been processed, with 2048 approved, amounting to NT\$12.878 billion in relief funds. The Act was legislated in response to frequent obstetric medical disputes, which led to a shortage of physicians and jeopardized maternal and child healthcare. During the pilot phase, obstetric disputes decreased by 70%, paving the way for the Act's passage and the improvement of working conditions in obstetrics. The relief scope includes cases of maternal, neonatal, and fetal deaths, as well as moderate or more severe disabilities. The successful promotion of this Act also contributed to the 2022 enactment of the Medical Accident Prevention and Dispute Resolution Act, further enhancing doctor-patient relations and establishing an Alternative Dispute Resolution model. Survey results from relief cases revealed a discrepancy between the provision of care services and public perception, particularly in explaining medical conditions, which reflects insufficient

trust in doctor-patient relationships. This underscores the importance of training healthcare providers in compassionate care and fostering a culture of non-blame. Additionally, the rising maternal and neonatal mortality rate is closely associated with the increasing number of older mothers. Late marriages and delayed childbearing exacerbate pregnancy risks, highlighting the need for policies to optimize workplace environments and risk management of high-risk pregnancies. Healthcare facilities also face shortcomings in managing fetal distress and neonatal asphyxia. Efforts should focus on strengthening prenatal risk assessments, rapid referral system and emergency response training. To address challenges arising from declining birth rates and the uneven distribution of childbirth medical resources, the open hospital model offers a potential solution. However, it requires careful integration of healthcare systems and thoughtful incentive design. Overall, the Act has successfully reduced medical litigation and enhance doctor-patient relationships. But providing care services, risk management to reduce maternal and neonatal mortality and severe illnesses, ultimately achieving the goal of “safe childbirth with national protection.”

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生產事故救濟自2016年6月開始施行至2023年12月，共受理2214件申請案件，其中有2048件核予救濟，審定金額為128,780萬元，未通過的救濟案件均為不符合生產事故救濟條件，或屬生產事故救濟條例第11條之救濟排除條件<sup>1</sup>。回顧生產事故救濟立法歷程，由於產科醫療糾紛頻繁，加上健保給付

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1 衛生福利部，2024 Annual Report of Childbirth Accident Relief，2024年12月，9-21頁。

偏低下，導致2000年後婦產科住院醫師招生不易，根據《聯合報》2013年5月19日報導，「怕醫療糾紛、沒生活品質，選到婦產科，醫學生痛哭」之困境<sup>2</sup>，婦產科醫學會研究資料顯示住院醫師招生僅達法定容額七成<sup>3</sup>，更何況還有一些住院醫師中途選擇轉換跑道，人力資源缺乏及嚴重老化，對婦幼照護造成莫大危機。時任衛生署長邱文達署長及醫事處石崇良處長與婦產科醫學會共同推動「鼓勵醫療機構辦理生育事故爭議事件試辦計畫」，於2012年10月開始執行，並回溯案件至2012年1月發生之生育事故，財政來源由醫發基金撥款，補助醫療機構與病方的和解金額，減少醫療訴訟，改善婦產科執業環境。

試辦計畫期間，住院醫師招生回流，時醫事司王宗曦資料顯示，產科醫療糾紛下降約七成<sup>4</sup>，也因著試辦計畫辦理成效良好，衛生福利部（下稱衛福部）推動醫療糾紛處理及醫療事故補償法，於2014年5月在社環委員會中初審通過。但礙於法條中補償基金來源醫界須分攤上限為30%，而導致醫界反對，進而立法破局<sup>5</sup>。其間，台灣婦產科醫學會與女人連線等團體在醫糾法破局後，盡力推動生育事故救濟獨立立法，於2015年底三讀通過，並於2016年6月開始實施。這是一部世界首創生

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2 聯合新聞網，怕惹醫療糾紛 選婦科醫學生痛哭，2013年5月19日報導，<https://www.youtube.com/watch?v=1xWmHNp6RTg>（瀏覽日期：2024年12月13日）。

3 Ming-Chao Huang, Wen-Chu Huang, Ching-Hung Hsieh, Tsung-Cheng Kuo & Maw-Sheng Lee, *Work Hours of Employed Obstetricians in Taiwan*, 57(6) TAIWANESE JOURNAL OF OBSTETRICS AND GYNECOLOGY 801-805 (2018), <https://doi.org/10.1016/j.tjog.2018.10.005> (last visited Dec. 13, 2024)

4 Tsung-Hsi Wang, Shu-Fen Lin, Kun-Yu Tsai & Yu-Fu Liu, *Lessons from the MOHW Compensation Pilot Program on Birth Incidents: First Step and Looking Forward*, 56(3) TAIWANESE JOURNAL OF OBSTETRICS AND GYNECOLOGY 320-324 (2017), <https://doi.org/10.1016/j.tjog.2017.04.010> (last visited Dec. 13, 2024)

5 衛生福利部，醫糾法懶人包《衛福部澄清醫勞盟五點疑問》，<https://www.mohw.gov.tw/cp-2645-20583-1.html>（瀏覽日期：2024年12月13日）。