

回歸與展望： 回眸近年醫事法之流變

Return and Prospect: A Look Back at the
Flow of Medical Law in Recent Years

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摘要

伴隨著經濟水準與社會秩序的快速發展，醫事法對於保障公民健康、限制醫師專家特權，促進醫學發展等方面發揮著愈發重要的作用。近年來，中國大陸在醫事法領域不斷深耕，通過一系列重大法律法規的頒布，從多個維度對醫事法進行了完善與發展。傳統法律的制定為醫事法的穩固發展奠定堅實基礎，新興領域立法的細化為科技倫理治理引入源頭活水、注入新的活力。雙管齊下，大陸醫事法正以欣欣向榮之態，持續為醫療衛生事業的有序發展保駕護航。

Accompanied by the rapid development of economic level and social order, medical law plays an increasingly

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important role in safeguarding the health of citizens, restricting the privileges of physicians and specialists, and promoting the development of medicine. In recent years, mainland China has been continuously deepening its efforts in the field of medical law, and through the promulgation of a series of major laws and regulations, medical law has been improved and developed in multiple dimensions. The introduction of traditional laws has laid a solid foundation for the solid development of medical law, while the refinement of legislation in emerging areas has introduced source water and injected new vitality into the governance of scientific and technological ethics. With the two-pronged approach, mainland medical law is thriving and continues to escort the orderly development of healthcare.

壹、行業小憲法讓行業回歸健康與公益

「中華人民共和國基本醫療衛生與健康促進法」於2020年6月1日正式實施，是大陸衛生健康領域的基礎性法律。它明確了基本醫療衛生服務的範圍和標準，強調了政府在保障公民健康方面的責任，為公民健康權提供了保障。全國人大法工委委員許安標指出，該法是在大陸衛生健康領域立法分布、功能交互以及缺少一部基礎綜合性法律的背景之下，落實憲法規定、加強頂層設計的現實回應¹。

該法明確提出，「國家和社會尊重、保護公民的健康權」「公民依法享有從國家和社會獲得基本醫療衛生服務的

1 許安標，加強公共衛生體系建設的重要法治保障——《基本醫療衛生與健康促進法》最新解讀，中國法律評論，2020年第3期，173-186頁。